REGISTRATION OF DEEDS AND ASSURANCES IN IRELAND COMMISSION.

FIRST REPORT

OF

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO

THE LAW RELATING TO THE REGISTRATION OF DEEDS AND ASSURANCES IN IRELAND,

WITH

APPENDIX.

Presented to both Houses of Parliament by Command of Her Majesty.

DUBLIN:
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ORIGINAL COMMISSION.

VICTORIA REG.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to Our right Trusty and Well-beloved Councillor, GEORGE AUGUSTUS CHICHESTER MAY, Lord Chief Justice in Ireland; Our right Trusty and Well-beloved Councillor, CHRISTOPHER PALLES, Lord Chief Baron of the Exchequer in Ireland; Our right Trusty and Well-beloved Councillor, HEDGES EYRE CHATTERTON, Vice-Chancellor in Ireland; Our right Trusty and Well-beloved Councillor, STEPHEN WOULFE FLANAGAN, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, HENRY ORMSBY, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, MOUNTIFORT LONGFIELD; Our Trusty and Well-beloved FREDERICK WILLIAM WALSH, ESQUIRE, one of Our Counsel learned in the Law of Ireland; Our Trusty and Well-beloved JOSEPH FAVIERE ELRINGTON, ESQUIRE, one of Our Counsel learned in the Law of Ireland; Our Trusty and Well-beloved CHARLES HENRY MELDON, ESQUIRE, one of Our Counsel learned in the Law of Ireland; Our Trusty and Well-beloved WILLIAM FINDLATER, ESQUIRE, President of the Incorporated Society of Solicitors in Ireland; Our Trusty and Well-beloved CHARLES OWEN O'CONOR, ESQUIRE (commonly called THE O'CONOR DON); Our Trusty and Well-beloved DODGSON HAMILTON MADDEN, ESQUIRE, and Our Trusty and Well-beloved RICHARD OWEN ARMSTRONG, ESQUIRE, Greeting:

WHEREAS by an Act passed by the Parliament of Ireland in the Sixth Year of the Reign of Her Majesty Queen Anne and entitled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any Honors, Manors, Lands, Tenements, or Hereditaments," a system of registration of Deeds and Wills in Ireland and a public office for the purpose of such registration was established.

AND WHEREAS various Statutes have since from time to time been enacted, amending the provisions of the said Act.

AND WHEREAS by an Act passed in the Thirteenth and Fourteenth Year of Our Reign, Creditors under Judgments, Decrees, Rules of Court, and Orders entered or made after the passing of the said Act as therein defined, were empowered by means of the registration in the said Office of an affidavit containing such statements, as thereby required, to vest in themselves the lands and hereditaments of their debtors situate in Ireland subject to redemption.

AND WHEREAS previous to the said last-mentioned Act the Office of Registrar of Judgments in Ireland had been established, and by the said Act the same was continued for the purpose of registering Judgments, Decrees, Rules, and Orders recovered or entered before the passing of the said Act, and also of registering Recognizances, Crown Bonds, and Lis pendens in Ireland.

AND WHEREAS by another Act passed in the Twenty-eighth and Twenty-ninth Year of Our Reign, an Office for the record of Title, under the control and direction of the Landed Estates Court in Ireland, was established.

AND WHEREAS since the passing of the said last-mentioned Act another and different system of recording Title has been introduced and is now in operation in England.

AND WHEREAS it is expedient to enquire into the aforesaid systems of registering Deeds, Wills, Conveyances, Judgments, Recognizances, Crown Bonds, and Lis pendens in Ireland and the Laws regulating the same respectively, and whether any improvement ought to be made in the said systems respectively, and as to the said system of recording Title in connection with the Landed Estates Court, whether, having regard to the system in England or otherwise, any alteration and improvement should be made therein.

AND WHEREAS it is also expedient to enquire into the condition, official organization, and management of the aforesaid Office for the Registry of Deeds and Wills, and of the aforesaid Office of Registrar of Judgments, and also of the aforesaid Office for the Record of Title, and whether the said Offices or some of them might not be consolidated together, or other improvements effected in the system and management of the same respectively.

Now Know Ye that We, reposing great Trust and Confidence in your zeal, discretion, and integrity, have authorized and appointed, and by these presents do authorize and appoint you the said George Augustus Chichester May, Christopher Palles, Hedges Eyre Chatterton, Stephen Woulfe Flanagan, Henry Ormsby, Mountifort Longfield, Frederick William Walsh, Joseph Faviere Elrington, Charles Henry Meldon, William Findlater, Charles Owen O'Conor (commonly called The O'Conor Don), Dodgson Hamilton Madden, and Richard Owen Armstrong, or any six or more of you, to be Our Commissioners to enquire into the operation of the system of registration of Deeds, Conveyances, and Wills, established by the aforesaid Act of the Sixth Year of Her Majesty Queen Anne, and other Acts amending the same, and whether any and what alterations and improvements ought to be made in the said system of registration, or in the laws or practice regulating or affecting the same, and also to enquire whether it is expedient that the system whereby creditors under Judgments, Decrees, and Orders are enabled by registration to make such securities, charges upon lands, and hereditaments in Ireland, should be continued or amended, and generally to enquire into the Laws relating to Judgments, Decrees, Orders, Crown Bonds, Recognizances, and Lis pendens in Ireland, and the modes of registering the same respectively, and whether any and what alterations and improvements should be made in the same respectively, and also to enquire into the operation of the existing system of recording Title in Ireland, and whether, having regard to the system at present in use in England or otherwise, any and what alterations and amendments should be introduced into the same; and also to enquire into the present condition and official organization of the said Registry of Deeds, Conveyances, and Wills in Ireland, and of the office for registering Judgments, Crown Bonds, and Recognizances, and also of the said office for the Record of Title in Ireland, and whether the said offices, or some of them, might not be consolidated, so that there shall be one office in which all searches for acts affecting lands, or for recorded Title to lands should be made, and generally whether with a view to greater economy and efficiency any and what improvements ought to be made in the organization and system of the aforesaid offices respectively and for the better discovery of the premises, We grant that you and each of you may obtain information by examination of all such persons as shall appear to you to be competent by reason of their knowledge and experience to afford it, and also by calling for all documents, papers, and records, which may be in or under the custody or control of Us, or of any of our Officers, and which may appear to you calculated to assist your enquiries, and for the purposes aforesaid We authorize and enjoin all Officers and persons in Our service whom you shall summon or call upon to give evidence or produce any such documents, papers, or records as aforesaid to attend before and inform and assist you in the premises as they may be by you required.

And it is Our Will and Pleasure that you, or any six or more of you, do report to Us in writing under your Hands and Seals, within the space of twelve months from the date of these presents, or sooner, if the same can be reasonably done, and also from time to time if occasion shall in your Judgment so require, your several proceedings by virtue of this Our Commission, together with your opinions touching and concerning the several matters hereby referred for your consideration.

And We Will and Command and by these presents ordain that this Our Commission shall continue in full force and virtue and that you, Our said Commissioners, or any six or more of you, may from time to time proceed in the execution thereof and of every matter and thing therein contained although the same be not contained from time to time by adjournment.

And for your further assistance in the execution of these presents We have made choice of Our Trusty and Well-beloved Richard James Lane, one of Our Counsel learned in the Law in Ireland to be Secretary to this Our Commission, whose service and assistance We require you to use from time to time as occasion may require.

Given at Our Court at St. James's, the 22nd day of January, 1878, in the Forty-first Year of Our Reign.

By Her Majesty's command,

R. Assheton Cross.

COMMISSION APPOINTING MAJOR CHARLES W. WILSON, C.B., R.E., AN ADDITIONAL COMMISSIONER.

VICTORIA REG.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to our Trusty and Well-beloved CHARLES WILLIAM WILSON, ESQUIRE, Companion of Our Most Honorable Order of the Bath, Major in Our Corps of Engineers, and now in charge of the Ordnance Survey of Ireland, Greeting:

WHEREAS by Our Commission, bearing date the Twenty-second day of January of the present year of Our Reign, We did appoint Our right Trusty and Well-beloved Councillor, GEORGE AUGUSTUS CHICHESTER MAY, Lord Chief Justice in Ireland; Our right Trusty and Well-beloved Councillor, CHRISTOPHER PALLES, Lord Chief Baron of the Exchequer in Ireland; Our right Trusty and Well-beloved Councillor, HEDGES EYRE CHATTERTON, Vice-Chancellor in Ireland; Our right Trusty and Well-beloved Councillor, STEPHEN WOULFE FLANAGAN, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, HENRY ORMSBY, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, MOUNTIFORT LONGFIELD, Our Trusty and Well-beloved FREDERICK WILLIAM WALSH, ESQUIRE, one of Our Counsel learned in the Law in Ireland; Our Trusty and Well-beloved JOSEPH FAVIERE ELRINGTON, ESQUIRE, one of Our Counsel learned in the Law in Ireland; Our Trusty and Well-beloved CHARLES HENRY MELDON, ESQUIRE, one of Our Counsel learned in the Law in Ireland; Our Trusty and Well-beloved WILLIAM FINDLATER, ESQUIRE, President of the Incorporated Society of Solicitors in Ireland; Our Trusty and Well-beloved CHARLES OWEN O'CONOR, ESQUIRE (commonly called THE O'CONOR DON); Our Trusty and Well-beloved DODGSON HAMILTON MADDEN, ESQUIRE, and Our Trusty and Well-beloved RICHARD OWEN ARMSTRONG, ESQUIRE, to be Our Commissioners to enquire into the operation of the system of Registration of Deeds, Conveyances, and Wills in Ireland, and into the several other matters and things in Our said Commission mentioned, with the powers and subject to the provisions and in the manner therein fully set forth.

AND WHEREAS We deem it expedient to associate with Our said Commissioners hereinbefore named in the execution of the said Commission one possessing special knowledge and experience of and concerning the Ordnance Survey of Ireland.

NOW KNOW YE that We, reposing great trust and confidence in your zeal, discretion, and integrity, have authorized and appointed, and by these presents do authorize and appoint you, the said CHARLES WILLIAM WILSON, to be associated with and to be one of Our said Commissioners to enquire into all and every the said matters in Our said Commission set forth, and it is Our Will and Pleasure that you shall have and exercise all the same and the like powers, and shall do all the same and the like acts, and generally shall stand and be in the same position to all intents and purposes as if you had been named and included in Our said Commission bearing date the Twenty-second day of January, 1878, as one of the Commissioners originally named therein.

Given at Our Court at Saint James's the 1st day of March, 1878, in the Forty-first Year of Our Reign.

By Her Majesty's Command,

R. ASSHETON CROSS.

SUPPLEMENTAL COMMISSION.

VICTORIA REG.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to Our right Trusty and Well-beloved Councillor, GEORGE AUGUSTUS CHICHESTER MAY, Lord Chief Justice in Ireland; Our right Trusty and Well-beloved Councillor, CHRISTOPHER PALLES, Lord Chief Baron of the Exchequer in Ireland; Our right Trusty and Well-beloved Councillor, HEDGES EYRE CHATTERTON, Vice-Chancellor in Ireland; Our right Trusty and Well-beloved Councillor, STEPHEN WOULFE FLANAGAN, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, HENRY ORMSBY, one of the Land Judges of the Chancery Division of Our High Court of Justice in Ireland; Our right Trusty and Well-beloved Councillor, MOUNTIFORT LONGFIELD, Our Trusty and Well-beloved CHARLES WILLIAM WILSON, ESQUIRE, Companion of Our Most Honorable Order of the Bath, Major in Our Corps of Engineers, and now in charge of the Ordnance Survey in Ireland; Our Trusty and Well-beloved FREDERICK WILLIAM WALSH, ESQUIRE, one of the Judges of Our Court of Bankruptcy in Ireland; Our Trusty and Well-beloved JOSEPH FAVIERE ELRINGTON, ESQUIRE, one of Our Counsel learned in the Law in Ireland; Our Trusty and Well-beloved CHARLES HENRY MELDON, ESQUIRE, one of Our Counsel learned in the Law in Ireland; Our Trusty and Well-beloved WILLIAM FINDLATER, ESQUIRE, President of the Incorporated Society of Solicitors in Ireland; Our Trusty and Well-beloved CHARLES OWEN O'CONOR, ESQUIRE (commonly called THE O'CONOR DON); Our Trusty and Well-beloved DODGSON HAMILTON MADDEN, ESQUIRE, and Our Trusty and Well-beloved RICHARD OWEN ARMSTRONG, ESQUIRE, Greeting:

WHEREAS We did by Warrants under Our Royal Sign manual bearing date respectively the Twenty-second day of January, One Thousand Eight Hundred and Seventy-eight, in the Forty-first Year of Our Reign, and the First day of March, One Thousand Eight Hundred and Seventy-eight, in the Forty-first Year of Our Reign, authorize and appoint you, or any six or more of you, to be Our Commissioners to inquire into the operation of the system of registration of Deeds, Conveyances, and Wills established by an Act passed by the Parliament of Ireland in the Sixth Year of the Reign of Her Majesty Queen Anne, and entitled "An Act for the public Registering of all Deeds, Conveyances, and Wills that shall be made of any honors, manors, lands, tenements, or hereditaments," and other Acts amending the same, and whether any and what alterations and improvements ought to be made in the said system of registration, or in the laws or practice regulating or affecting the same, and also to inquire whether it is expedient that the system whereby creditors under Judgments, Decrees, and Orders are enabled by registration to make such securities charges upon lands and hereditaments in Ireland should be continued or amended, and generally to inquire into the laws relating to Judgments, Decrees, Orders, Crown Bonds, Recognizances, Lis pendens in Ireland, and the modes of registering the same respectively, and whether any and what alterations and improvements should be made in the same respectively, and also to inquire into the operation of the existing systems of recording Title in Ireland, and whether, having regard to the system at present in use in England or otherwise, any and what alterations and amendments should be introduced into the same.

And also to inquire into the present condition and official organization of the said Registry of Deeds, Conveyances, and Wills in Ireland, and of the Office for Registering Judgments, Crown Bonds, and Recognizances, and also of the said Office for the Record of Title in Ireland, and whether the said offices or some of them might not be consolidated, so that there should be one office in which all searches for acts affecting lands or for recorded title to lands should be made, and generally with a view to greater economy and efficiency, any and what improvements ought to be made in the organization and system of the aforesaid Offices respectively.

AND WHEREAS We did by Our said Commission, bearing date the Twenty-second day of January, One Thousand Eight Hundred and Seventy-eight, in the Forty-first Year of Our Reign, declare Our will and pleasure to be that you, Our said Commissioners, or any six or more of you, should report to Us in writing under your hands and seals within the space of twelve months from the date of Our said Commission, or sooner if the same could be reasonably done, and also from time to time if occasion should in your judgment

so require your several proceedings by virtue of Our said Commission together with your opinions touching and concerning the several matters thereby referred for your consideration.

And whereas it has been humbly represented unto Us that it would be expedient to extend the period in which you, Our said Commissioners, were therein required to make your report.

Now Know Ye that We have extended and by these presents do extend the duration of Our said Commission until the First day of December, One Thousand Eight Hundred and Seventy-nine, for the purpose of enabling you, Our said Commissioners, to complete the inquiries thereby required to be made.

And Our further Will and Pleasure is that upon due examination of the premises therein mentioned you do, before the said First day of December, One Thousand Eight Hundred and Seventy-nine, report to Us under the hands and seals of you, or any six or more of you, what you shall have done in the premises.

Given at Our Court at Saint James's the 18th day of January, 1879, in the Forty-second Year of Our Reign.

By Her Majesty's Command,

R. Assheton Cross.

MEETINGS OF THE COMMISSIONERS.

(1.) 19th February, 1878.—At the Judges' Chambers, Four Courts.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	J. F. Elrington, esq., Q.C., LL.D.
Judge Ormsby.	W. Findlater, esq.
M. Longfield, esq., LL.D.	D. H. Madden, esq.
F. Walsh, esq., Q.C.	R. O. Armstrong, esq.

The Secretary.

(2.) 10th May, 1878.—At the Board-room, 19, Eustace-street.

Present:

The Lord Chief Justice, Chairman.

The Chief Baron.	J. F. Elrington, esq., Q.C., LL.D.
The Vice-Chancellor.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.
M. Longfield, esq., LL.D.	R. O. Armstrong, esq.
F. Walsh, esq., Q.C.	Major Wilson, C.B., R.E.

The Secretary.

(3.) 24th May, 1878.—At the Board-room.

Present.

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	J. F. Elrington, esq., Q.C., LL.D.
Judge Ormsby.	D. H. Madden, esq.
M. Longfield, esq., LL.D.	R. O. Armstrong, esq.
F. Walsh, esq., Q.C.	Major Wilson, C.B., R.E.

The Secretary.

(4.) 3rd June, 1878.—At the Board-room.

Present:

The Lord Chief Justice, Chairman.

The Chief Baron.	F. Walsh, esq., Q.C.
The Vice-Chancellor.	J. F. Elrington, Q.C., LL.D.
Judge Ormsby.	W. Findlater, esq.
M. Longfield, esq., LL.D.	R. O. Armstrong, esq.

The Secretary.

(5.) 10th June, 1878.—At the Board-room.

Present:

The Lord Chief Justice, Chairman.

The Chief Baron.	C. H. Meldon, esq., Q.C., M.P.
The Vice-Chancellor.	W. Findlater, esq.
Judge Ormsby.	The O'Conor Don, M.P.
M. Longfield, esq., LL.D.	R. O. Armstrong, esq.
J. F. Elrington, esq., Q.C., LL.D.	

The Secretary.

(6) 18th June, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.
M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
J. F. Elrington, esq., Q.C., LL.D.
C. H. Meldon, esq., Q.C., M.P.
W. Findlater, esq.
The O'Conor Don, M.P.
D. H. Madden, esq.
R. O Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

(7.) 25th June, 1878.—At the Board-room.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.
Judge Ormsby.
M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

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(8) 2nd July, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice
Judge Ormsby.
M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
C. H. Meldon, esq., Q.C., M.P.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

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(9) 9th July, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

---

(10) 10th July, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

(11.) 23rd July, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

F. Walsh, esq., Q.C.
W. Findlater, esq.
D. H. Madden, esq.
Major Wilson, C.B., R.E.

The Secretary.

(12) 30th July, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

F. Walsh, esq., Q.C.
W. Findlater, esq.
D. H. Madden, esq.

R. O. Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

(13.) 6th August, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

W. Findlater, esq.
D. H. Madden, esq.

R. O. Armstrong, esq.
Major Wilson, C.B., R.E.

The Secretary.

(14.) 27th August, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.
M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
J. F. Elrington, esq., Q.C., LL.D.

W. Findlater, esq.
D. H. Madden, esq.
Major Wilson, C.B., R.E.

The Secretary.

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(15) 21st October, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

F. Walsh, esq., Q.C.
C. H. Meldon, esq., Q.C., M.P.

W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(16.) 31st October, 1878.—At the Board-room.

Present.

The Vice-Chancellor, Chairman.

M. Longfield, esq., LL.D.
F. Walsh, esq., Q.C.
C. H. Meldon, esq., Q.C., M.P.
W. Findlater, esq.

The O'Conor Don, M.P.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

---

(17) 6th November, 1878.—At the Board-room.

Present.

The Lord Chief Justice, Chairman.

The Vice-Chancellor.
Judge Ormsby.
F. Walsh, esq., Q.C.
J. F. Elrington, esq., Q.C., LL.D.

The O'Conor Don, M.P.
W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(18.) 12th November, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.
M. Longfield, esq., LL.D.
J. F. Elrington, esq., Q.C., LL.D.

W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(19) 19th November, 1878.—At the Board Room.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	W. Findlater, esq.
Judge Ormsby.	The O'Conor Don, M.P.
F. Walsh, esq., Q.C.	D. H. Madden, esq.
J. F. Elrington, esq., Q.C., LL.D.	R. O Armstrong, esq.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

---

(20) 30th November, 1878.—At Mr. Dillon's Room's, No 3, Lower Ormond-quay.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	The O'Conor Don, M.P.
M. Longfield, esq., LL.D.	W. Findlater, esq.
J. F. Elrington, esq., Q.C., LL.D.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

(21.) 3rd December, 1878.—At Mr. Dillon's Rooms, No. 3, Lower Ormond-quay.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	The O'Conor Don, M.P.
Judge Ormsby.	W. Findlater, esq.
M. Longfield, esq., LL.D.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

(22.) 10th December, 1878.—At the Board-room

Present:

The Vice-Chancellor, Chairman.

The Chief Baron	W. Findlater, esq.
C. H. Meldon, esq., Q.C., M.P.	D. H. Madden, esq.
The O'Conor Don, M.P.	

The Secretary.

(23.) 31st December, 1878.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	Major Wilson, C.B., R.E.
W. Findlater, esq.	

The Secretary

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(24) 3rd January, 1879.—At the Board-room

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	Major Wilson, C.B., R.E.
W. Findlater, esq.	

The Secretary

(25.) 6th January, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	W. Findlater, esq.
F. Walsh, esq., Q.C.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	Major Wilson, C.B., R.E.

The Secretary.

(26.) 9th January, 1879.—At the Board-room

Present:

The Vice-Chancellor, Chairman.

The Chief Baron.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.
F. Walsh, esq., Q.C.	Major Wilson, C.B., R.E.
C. H. Meldon, esq. Q.C., M.P.	

The Secretary.

(27.) 14th January, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	W. Findlater, esq.
The Chief Baron.	D. H. Madden, esq.
Judge Ormsby.	R. O. Armstrong, esq.
F. Walsh esq., Q.C.	Major Wilson, C.B., R.E.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

(28.) 21st January, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	D. H. Madden, esq.
C. H. Meldon, esq. Q.C., M.P.	R. O. Armstrong, esq.
The O'Conor Don, M.P.	Major Wilson, C.B., R.E.
W. Findlater, esq.	

The Secretary.

(29.) 29th January, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	W. Findlater, esq.
The Chief Baron.	D. H. Madden, esq.
Judge Ormsby.	R. O. Armstrong, esq.
The O'Conor Don, M.P.	Major Wilson, C.B., R.E.

The Secretary.

(30.) 4th February, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman

The Lord Chief Justice.	D. H. Madden, esq.
J. F. Elrington, esq., Q.C., LL.D.	R. O. Armstrong, esq.

The Secretary.

(31.) 11th February, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	D. H. Madden, esq.
Judge Ormsby.	R. O. Armstrong, esq.
J. F. Elrington, esq., Q.C., LL.D.	Major Wilson, C.B., R.E.
W. Findlater, esq.	

The Secretary.

(32.) 18th February, 1879.—At the Board-room.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.
Judge Walsh.	R. O. Armstrong.
C. H. Meldon, esq., Q.C., M.P.	Major Wilson, C.B., R.E.

The Secretary.

(33.) 25th February, 1879.—At the Board-room.

Present:

The Lord Chief Justice, Chairman.

The Vice-Chancellor.	The O'Conor Don, M.P.
Judge Ormsby.	W. Findlater, esq.
Judge Walsh.	D. H. Madden, esq.
J. F. Elrington, esq., Q.C., LL.D.	Major Wilson, C.B., R.E.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

(34.) 4th March, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	W. Findlater, esq.
M. Longfield, esq., LL.D.	D. H. Madden, esq.
J. F. Elrington, esq., Q.C., LL.D.	R. O. Armstrong, esq.

The Secretary.

(35.) 11th March, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

M. Longfield, esq., LL.D.	W. Findlater, esq.
J. F. Elrington, esq., Q.C., LL.D.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	R. O. Armstrong, esq.

The Secretary.

(36.) 17th March, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Walsh.	W. Findlater, esq.
J. F. Elrington, esq., Q.C., LL.D.	D. H. Madden, esq.
C. H. Meldon, esq., Q.C., M.P.	R. O. Armstrong, esq.

The Secretary.

(37.) 20th March, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman

M. Longfield, esq., LL.D.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(38.) 24th March, 1879.—At the Board-room

Present:

The Vice-Chancellor, Chairman.

M. Longfield, esq., LL.D.
Judge Walsh.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

(39.) 26th March, 1879.—At the Board-room.

Present.

The Vice-Chancellor, Chairman

Judge Walsh.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

(40.) 9th April, 1879.—At the Board-room.

Present:

Judge Ormsby.
M. Longfield, esq., LL.D.
W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(41.) 16th April, 1879.—At the Board-room.

Present.

The Lord Chief Justice, Chairman

The Vice-Chancellor.
Judge Ormsby.
W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(42.) 23rd April, 1879.—At the Board-room.

Present.

The Vice-Chancellor, Chairman.

Judge Ormshy.
J. F. Elrington, esq., Q.C., LL.D.
W. Findlater. esq.
The O'Conor Don, M.P.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

(43.) 30th April, 1879.—At the Board-room

Present:

The Vice-Chancellor, Chairman.

Judge Walsh.
W. Findlater, esq.
D. H. Madden, esq.

The Secretary.

(44.) 7th May, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
Judge Ormsby.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
W. Findlater, esq.
D. H. Madden, esq.
R. O. Armstrong, esq.

The Secretary.

(45.) 14th May, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
Judge Ormsby.
Judge Walsh.

The Secretary.

(46.) 21st May, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
Judge Ormsby.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
D. H. Madden, esq.

The Secretary.

(47.) 28th May, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
Judge Ormsby.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
D. H. Madden, esq.

The Secretary.

(48.) 5th June, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
The Chief Baron.
Judge Ormsby.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
W. Findlater, esq.
The O'Conor Don, M.P.
D. H. Madden, esq.
R. O. Armstrong.

The Secretary.

(49.) 11th June, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.
The Chief Baron.
Judge Ormsby.
Judge Walsh.
J. F. Elrington, esq., Q.C., LL.D.
W. Findlater, esq.
The O'Conor Don, M.P.
D. H. Madden, esq.

The Secretary.

(50.) 12th June, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Chief Baron.	W. Findlater, esq.
Judge Ormsby.	D. H Madden, esq.
Judge Walsh.	R. O. Armstrong, esq.

The Secretary.

(51.) 16th June, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

W. Findlater, esq.	D. H. Madden, esq.
The O'Conor Don, M.P.	

The Secretary.

(52.) 25th June, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.

The Secretary.

(53.) 2nd July, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	C. H. Meldon, esq., Q.C., M.P.
The Chief Baron.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.
Judge Walsh.	R. O. Armstrong, esq.
M. Longfield, esq., LL.D.	

The Secretary.

(54.) 3rd July, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

The Lord Chief Justice.	C. H. Meldon, esq., Q.C., M.P.
The Chief Baron.	W. Findlater, esq.
Judge Ormsby.	D. H. Madden, esq.
Judge Walsh.	R. O. Armstrong, esq.

The Secretary.

(55.) 7th July, 1879.—At the Board-room.

Present:

The Vice-Chancellor, Chairman.

Judge Ormsby.	W. Findlater, esq.
Judge Walsh.	D. H. Madden, esq.
M. Longfield, esq., LL.D.	R. O. Armstrong, esq.
C. H. Meldon, esq., Q.C., M.P.	

The Secretary.

REGISTRY OF DEEDS COMMISSION.

FIRST REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Commission.

In pursuance of your Majesty's Commissions bearing date respectively the 22nd day of January, 1878, the 1st day of March, 1878, and the 18th day of January, 1879, authorizing and appointing Us (with Major Wilson, C.B., R.E., of whose assistance We have been lately deprived)* to inquire into—

Enquiries.

The operation of the system of Registration of Deeds, Conveyances, and Wills, established by an Act passed by the Parliament of Ireland in the sixth year of the reign of Her Majesty Queen Anne, and entitled "An Act for the public registering of all Deeds, Conveyances, and Wills that shall be made of any honours, manors, lands, tenements, or hereditaments," and other acts amending the same; and

Whether any and what alterations and improvements ought to be made in the said system of Registration, or in the laws or practice regulating or affecting the same, and also to enquire—

Whether it is expedient that the system whereby creditors under judgments, decrees, and orders are enabled by registration to make such securities charges upon lands and hereditaments in Ireland should be continued or amended, and generally to enquire into—

——— The laws relating to Judgments, Decrees, Orders, Crown Bonds, Recognizances, and Lis pendens in Ireland, and—

——— The modes of Registering the same, respectively, and whether any and what alterations and improvements should be made in the same respectively, and also to inquire into—

——— The operation of the existing system of recording title in Ireland and—

Whether having regard to the system at present in use in England or otherwise any and what alterations and amendments should be introduced into same, and also to enquire into—

——— The present condition and official organization of the said Registry of Deeds, Conveyances, and Wills in Ireland and—

——— Of the Office for Registering Judgments, Crown Bonds, and Recognizances, and also

——— Of the said Office for the Record of Title in Ireland and—

Whether the said offices or some of them might not be consolidated so that there shall be one office in which all searchers for acts affecting lands or for recorded title to lands should be made and generally

Whether with a view to greater economy and efficiency any and what improvements ought to be made in the organization and system of the aforesaid offices respectively—

We, your Majesty's Commissioners humbly certify that having entered upon the consideration of the several matters thus committed to us for investigation, we found that from their extent, variety, and importance, it would not be possible for us to complete our enquiries within the time (a year) fixed by the first of the above-mentioned Commissions. We so represented to your Majesty, and you were pleased by your said Commission of the 18th day of January, 1879, to extend the time for making our report until the 1st day of December next; and in pursuance of the permission given to us to report to your Majesty, from time to time, if occasion should in our judgment so require, our several proceedings by virtue of said Commissions, together with our opinions touching and concerning the matters therein, we beg leave to present to your Majesty the following Report of our proceedings and the result of our deliberations with respect to a portion of the enquiries intrusted to us

Extension of time.

Sources of information.

(1) Former Reports.

In prosecuting our enquiries we have had before us the Reports of former Commissions, from time to time made upon several of the enquiries committed to us, particularly the 2nd Report of the Real Property Commissioners, in 1832; the Reports of the Registration and Conveyancing Commissioners in 1850; the Registration of Title Commissioners in 1857; and of R. J. Lane, Esq., Q.C., upon the Registry of Deeds Office in 1861; the Second Report of the Common Law and Chancery Commission in 1866; the Report of the Land Transfer and Middlesex Registry of Deeds Commissioners in 1870;

* Major Wilson left upon being appointed Consul-General in Anatolia in April, 1879.

the Report of Messrs. Law and Chisholm, on the Irish Registry of Deeds Office, in 1865; the Report of a Committee appointed by the Lords Commissioners of your Majesty's Treasury, in the year 1874, "to inquire into an invention of Mr. T. A. Dillon, for simplifying the system of Registry of Deeds in Ireland;" and two Reports by the Registrar of Deeds to the Treasury, upon that invention, in 1874 and 1875 respectively; the Report of the Commissioners of Enquiry into the state of the Registers of Land Rights in Scotland, in 1863; the Reports of the Land Titles and Transfer Committee appointed by the House of Commons in the Session of 1878 with the evidence; also two pamphlets on the subject of Registry of Deeds published respectively by Lieutenant-Colonel Leach in the years 1861 and 1878; two returns made by the Registrar of Deeds to the House of Commons, one in 1862 containing suggestions made to the Treasury by Mr. O'Connell, the then Registrar of Deeds, and Mr. Ray, the then Chief Clerk, for the improvement of the Registry, with the proposed form of Lands Index which accompanied it, and the other in 1877; a return from the Registrar of Sasines in Edinburgh in 1874; and a return to the House of Commons from the Registrars of the Australian Colonies in 1872.

(2) Returns procured. (*a*) Ap., pp. 121, 140, 141. (*b*.) Ap., p. 127. (*c*) Ap., p. 143

We procured, in addition, returns relative to their respective offices, from the Registrar of Deeds (*a*) (Ireland), with Suggestions for the improvement of the Registry, (*b*) and Observations (*c*) by him upon the plan for Registration proposed by Lieutenant-Colonel Leach; from the respective Masters of the Queen's Bench and Common Pleas Divisions of the High Court of Justice; from the Registrar of Judgments; and from the Recording Officer of Titles which will be found in the Appendix (pp. 145 to 147).

(3) Bills.

We have also had before us several bills from time to time prepared with respect to the subject-matters of our inquiries, (*a*) including one drawn by a member of this Commission in the year 1876, of which copies were sent us by the Lord Chancellor.

(4) Answers to questions issued.

In addition, for the purpose of collecting information from persons practically and professionally conversant with the matters submitted to our investigation, we caused a series of questions to be sent to several Judges, members of the Bar, and Solicitors, and to the Associations of Solicitors through the country, which with the answers to them will be found in the Appendix (p. 1 to 28).

(5) *Viva voce* examination.

We examined *viva voce* several witnesses, including Mr. M'Donnell the Recording Officer, the Registrar of Deeds, Mr. French his Chief Clerk, Mr. John Ball Greene the Commissioner of Valuation, and Lieutenant-Colonel Leach, R.A., and their evidence will also be found in the Appendix, (p. 29 to 120), and we derived valuable assistance and information from Major Wilson (while with us) respecting the Ordnance Survey and its capability for being made the basis of the Registration of Deeds.

(6.) Information from various Registry Offices.

We have the pleasure of acknowledging the ready compliance with our request for information from the Officers of the several Registry Offices in England, Scotland, and the Colonies (*b*).

Registration of Assurances and Registration or Recording of Title Compared.

The first of the several subjects of enquiry above-mentioned appeared to us to be necessarily connected with the enquiry also directed to be made by us into the "operation of the existing system of recording title in Ireland": as, before forming any opinion on the former, it was necessary for us to consider whether both these systems should continue to exist concurrently, or whether one of them only, and if so, which of them should be maintained.

Difference of question in England and Ireland.

The relative merits of the rival systems of Registration of Assurances and Registration or Recording of Title have been often discussed, but the practical question, so far as regards Ireland, is different from that which presented itself to the various Commissions and Committees who have investigated the subject in relation to England, and is easier of solution. In Ireland the question is not, which of two rival systems should be adopted; but, whether in addition to an existing General Registry of Assurances (the abolition of which has not been suggested), there should also be maintained an Office for the Registration or Recording of Title, for the benefit of such members of the public as may prefer the latter system.

Registry of Deeds generally approved of (1.) in Ireland.

In considering this question we have the advantage of a considerable body of experience, which has been accumulated both here and in England. We have had in Ireland since the year 1708 a system of Registration of Deeds, which although capable of extension and improvement, has proved of great benefit as a protection to persons

(*a*) The Assurance Registration (Ireland) Bill 1862; The Judgments Law Amendment (Ireland) Bill 1862; The Assurances Registration (Ireland) Bill 1863; The Judgments Law Amendment (Ireland) Bill 1863; The Registry of Deeds (Ireland) Bill 1876

(*b*) Registrar of Sasines, Edinburgh, with Specimens of Search Sheets and Indexes; Registrar of Titles, London; Deputy-Registrar of Deeds, West Riding, Yorkshire; Commissioner of Lands Titles, West Australia; Registrar-General, Sydney; Recorder of Titles, Tasmania; Registrar of Deeds, Tasmania; Registrar-General, South Australia; Registrar of Ottawa, Canada West.

dealing with land, and has met with the approval of all classes connected with the transfer of Landed Property. The want of some general system of Registration in England has been for some time felt, and has led to the appointment of several Royal Commissions and Parliamentary Committees. The Real Property Commissioners in their second Report, published in 1832, recommended the establishment in England of a General Registry, comprising assurances and acts of all kinds relating to land. A bill embodying the recommendations of the Commissioners was introduced into Parliament, but never became law.

(2.) by the Real Property Commissioners,

In 1850 a Royal Commission appointed in England, to inquire whether the burdens on land could be diminished by the establishment of an effective system for the Registration of Deeds, and by the simplification of the forms of conveyances, reported in favour of the establishment of a General Registry of Assurances.

(3.) by Royal Commission of 1850.

Before any legislation had taken place upon these Reports, the system of Registration of Title was brought prominently before the public, mainly in consequence of the successful working of the system in Australia. A Royal Commission was appointed in 1854 "to consider the subject of Registration of Title with reference to the sale and "transfer of land, and generally to inquire into and consider the advantages and dis- "advantages attending such a system." The Commissioners reported in 1857, and after carefully comparing the advantages and disadvantages of both systems, pronounced in favour of Registration of Title as compared with Registration of Assurances, but recommended that Registration should not be made compulsory on the owners of land.

Registration of Title Commission.

The result of this Report was the Act of 1862, known as Lord Westbury's Act. The working of this Act not proving satisfactory, a Royal Commission was appointed in 1868 to enquire into its operation, and whether any alteration or improvement ought to be made. There was considerable difference of opinion among the members of this Commission, but the general result of their Report, made in 1870, was the condemnation of the Act of 1862, and the recommendation of the establisbment of an altered system of Registry of Title. This was effected by the Act of 1875 known as Lord Cairns' Act. It appears from returns of the business done by this office that the Act has proved practically a dead letter.

Result of Lord Westbury's Act (1862).

Condemned and altered by Lord Cairns' Act (1875).

The failure of the second system of Registration of Title established in England, and the occurrence of certain notorious frauds upon purchasers, having recalled public attention to the question of the establishment of a Registry of Assurances, which had been laid aside since the year 1850, a select Committee of the House of Commons was appointed in 1878 to enquire into the entire question of Land Titles and Transfer in relation to England, which was reappointed in the present session, and has just brought up its report recommending the establishment of a system of Registration of Assurances.

Failure of it too.

Lands Title and Transfer Committee (1878).

While the system of Registration of Title was thus upon its trial in England we have had practical experience of the working of the system in Ireland. An Office for the Registration, or (as it was called in order to avoid confusion with our existing Registry) the Recording of Title to Land, was established in Ireland pursuant to the provisions of the Record of Title (Ireland) Act, 1865, under circumstances in some respects more favourable than existed in England. Inasmuch as the Record commenced in each case with an indefeasible Parliamentary Conveyance, one principal source of difficulty was removed, and the connexion of the office with the Landed Estates Court supplied a want which has frequently been complained of in the English system. A section (7) was inserted in the Act of 1865, under which all Conveyances and Declarations of Title executed by the Land Judges are recorded as of course, unless a requisition to the contrary, under the hand of the purchaser, is lodged within seven days.

Record of Title (Ireland) Act (1865).

Notwithstanding these favourable circumstances the Recording of Title has not received any substantial measure of public support in Ireland. The returns which are printed in the Appendix (*a*) show that a very small and decreasing per-centage of the estates which pass through the Landed Estates Court were allowed to fall within the operation of this Act. Of this small proportion it is impossible to ascertain how many were placed upon the Record with the consent of the owners, and ten of them have been removed from it under the 32nd section of the Act (*b*). The result of these experiments leads, in our opinion, to the conclusion that no system of Registry of Title the adoption of which is not rendered compulsory, is likely to be made use of by any substantial proportion of the landowners of Ireland.

Not approved of generally (*a*) p. 145.

Result (*b*) App., p. 146.

The very small measure of success which has attended the experiment of the introduction into Ireland of a Registration of Title, and the admitted failure of the English systems, afford a strong argument against the continuance of a system which (even if theoretically excellent) destroys the uniformity of our Registry of Deeds with so little practical results, and the existence of which, side by side with that, Registry, causes positive inconvenience and expense, when recorded and non-recorded

Objections to Registry of Title and of Deeds concurrently.

estates come, by devolution of title, to be comprised in the same instrument. But independent of this consideration, a careful examination of the various systems of Registration of Title which have been from time to time introduced, has led us to the conclusion that Registration of Assurances is in itself preferable, having regard to the complicated system of limitations and trusts permitted by the Law of Real Property in this country, and the general character of dealings with land.

Difference of the two systems.

The essential difference between the two systems consists in the description of information which they profess to afford to the enquirer. A perfect Registry of Assurances informs him of the existence and nature of the antecedent dealings with the lands in question, enabling him to disregard all transactions which do not appear on the Register. It gives him no direct information as to the ownership of the lands, which he must deduce as best he can from the previous dealings with it. A Registry or Record of Title, on the other hand, professes to give the enquirer information as to the actual ownership of the lands, irrespective of the past transactions from which that ownership has resulted.

Advantages claimed for Registry of Title.

The Registration of Title Commissioners, in their Report published in 1857, rested the superiority of the system of Registration of Title over that of Registration of Assurances upon four principal grounds:—The direct information as to ownership afforded by a Registry of Title, which, they consider, would dispense with the necessity of investigating the antecedent title The security of title afforded. The avoidance of the multiplication of deeds and documents dealing with the lands in question. The simplification of conveyancing which they anticipated as a result of the system.

Claim 1st, viz — Information as to ownership is not given.

If the first of these supposed advantages existed in fact, it would unquestionably be a very great one, and would counterbalance many objections. But every system of Registration of Title which has as yet been devised, fails to give information as to the ownership of land, when the land in question becomes involved in the trusts and limitations of a settlement, effected either by deed or will. So long as the estate placed on the Register is subjected to dealings of a simple character, such as sales out and out, mortgages and absolute devises, definite and satisfactory information may be afforded as to ownership. In such cases there would be no difficulty in ascertaining the ownership from the information supplied by a Register of Assurances. But whenever the complication of a settlement intervenes, the powers of a Register of Title are paralyzed, no information is given as to actual ownership, and the enquirer is remitted to enquiries precisely similar to those which are necessary in order to ascertain ownership under a system of Registration of Assurances. This will appear from a comparison of the manner in which partial and limited interests are dealt with under the three systems of Registration of Title embodied in the Record of Title Act (Ireland), 1865, in Lord Westbury's Act of 1862, and in Lord Cairns' Act of 1875.

Either (1) under Irish System.

Under the Record of Title Act (Ireland), 1865, when a settlement of land, whether effected by will or deed, supervenes, the Record of Title to the fee is in abeyance, except in the solitary case of the lands being vested in trustees for sale. Such trustees are placed upon the record as the owners, but no information is given as to the beneficial ownership of the land. Where there are no trustees for sale, an intending purchaser of some interest under a settlement affecting recorded land is referred by the Record to the settlement itself, from which he must find out the interest taken by his vendor The only mode by which the Record of Title can be made to afford information co-extensive with the actual state of ownership of the estate in settlement, is by opening a distinct and independent Record for each separate estate in possession, or remainder, vested or contingent. This involves the discontinuance of the Recording of Title to the fee-simple, which remains suspended until the scattered estates into which the fee has been divided become in the course of time reunited. This may never occur in the case of lands which are settled during successive generations. In any case the promise with which the Record commenced of showing title to the fee is falsified, and if complete information as to the ownership is to be afforded by the Record, every remainder, vested or contingent, must be the subject matter of a distinct Record.

(2) Under Lord Westbury's Act

Under the system introduced into England by Lord Westbury's Act of 1862, where land has become subject to a settlement, the only information as to ownership afforded by the Register is as to the first estate of freehold and first vested estate of inheritance, unless the lands are vested in trustees for sale, in which case these trustees are placed upon the Register as owners. Equitable owners may protect themselves by caveats, but except in the case of persons collectively entitled to the fee-simple and applying for registration as such, no direct information is given as to the actual ownership of land where the transactions are other than of the simplest character. The existence, however, of charges and leases was disclosed by the Register.

But scanty as was the information as to limited or partial interests afforded by the Acts of 1862 and 1865 experience showed that the recognition of such interests to any extent was incompatible with the system of Registration of Title, and the Commissioners of 1870 recommended a return to the principles laid down by the Commissioners of 1857. These principles are thus stated—"For the purposes of transfer the registered ownership will at all times represent the fee-simple of the property, and as such it will not be capable of any subdivision or modification into partial estates or interests." The Commissioners of 1870 went even further in this direction than the report of 1857, by recommending the exclusion from the Register of leases and charges, leaving the persons interested to the protection of caveats.

As shown by Report of 1870.

The latest development of the system of Registration of Title carries this principle to its fullest extent (except so far as regards leases and charges which are not absolutely excluded from the Register), for under Lord Cairns' Act no information whatever is afforded as to the existence of any estate in lands other than the absolute ownership, trustees for sale being treated as absolute owners. On the death of an owner in fee, if no trustees for sale are appointed by his will, the Registrar appoints representatives for the purposes of the Registry who are virtually trustees for sale appointed independently of the will of the late owner (and possibly even against his wishes) by the sole act of the Registrar. The persons so appointed can dispose of the fee, but persons equitably entitled may protect themselves by means of Caveats. The purchaser of any interest other than the fee-simple obtains no direct information from the Register as to the interest of his vendor, and can gain no protection whatever from the system.

Or, (3) under Lord Cairns' Act.

Which only shows the fee.

We do not regard Caveats as affording sufficient or suitable protection for anything but temporary transactions. If personal service on the Caveator is required, great delay will often be caused. If, on the other hand, service at the registered address of the original Caveator be sufficient, confiscation of property may often occur. At the best, the Caveat is but an indication of the existence of a Deed, the nature of which is undisclosed.

And Caveats insufficient.

In Ireland the protection afforded by the Registry of Deeds to equitable estates and partial interests and charges upon land being the same as that afforded to the fee, has made them marketable to a greater extent than in England. This is noticed by the Real Property Commissioners in their Report of 1832, as one of the advantages which would follow from the establishment of a general Register of Assurances. Since the passing of the Judicature Act, the beneficial ownership of land is the ownership recognised in all divisions of the High Court of Justice. The extent to which those partial and limited interests which are excluded from a Register of Title prevail in relation to land, are recognised by the law, and dealt with as marketable interests, distinguishes the case of a Register of Title to land from other Registers of absolute ownership, such as the Register of shares in Joint Stock Companies and Ship Registers. For the same reasons the experience of the working of a similar system in Australia under different conditions as to ownership and dealings with land, throws but little light on the solution of the problem as regards this country. For these reasons we are of opinion that the first of the above-mentioned advantages claimed for the system of Registration of Title does not in fact exist, inasmuch as the inquirer is in cases of complication remitted to precisely the same sources of information, as those the inadequacy of which is complained of in the case of a Registry of Assurances.

While the Registry of Deeds protects all interests equally.

As to the interests which do appear on the Register, definite and conclusive information is unquestionably given, but whether this definiteness and conclusiveness may not be too dearly purchased will appear in our consideration of the second advantage claimed for the system of Registration of Title, viz., Security of Title.

Claim 2, viz:—Security of Title not accomplished.

Insecurity of title arises principally from two classes of questions—questions of construction and questions of evidence. A Registry of Assurances does not profess to afford protection against insecurity arising from which can only be acquired by deciding all such questions with absolute finality against all the world.

Two classes of insecurity.

If the Register of Title is to fulfil its promise of giving information as to actual ownership, the entry upon the Register consequent upon any transaction affecting the lands must be final and conclusive, not only as to the existence of the transaction, but as to its legal operation and effect; for it is by these that the ownership is determined. For example, the owner of a fee-simple estate dies, having devised it by his will. The entry upon the Register of Title not only notes the fact of the existence of the will, but defines the nature and extent of the estate taken by the devisee; and the entry thus made is final and conclusive. Under the English system, qualified and possessory titles can be registered, and the conclusiveness of the entry in such cases only extends to the title after it is brought on the Register. In Ireland none but Parliamentary titles

And security only to be got by judicial investigation on each step.

granted by the Land Court are recorded, and one of the principal advantages claimed by the advocates of this system is that upon each step in the devolution of title to a recorded estate a Parliamentary title is conferred as final and conclusive as upon the execution by a Land Judge of the instrument which formed the root of Title.

Decision of which ought not to be made exparte,

It by no means follows from the adoption of the principle of Parliamentary title as consequent upon proceedings before the Land Judges, that a similar finality can safely be attached to subsequent entries in the Register made by an Official, or even by a a Judge upon an ex-parte application. A conveyance upon sale, or declaration of title, is the result of a judicial investigation, in the course of which all interested parties are brought before the Court, and the general public are made aware of the proceedings.

And proper judicial investigation on each step impossible.

(*a*) Ap, p. 78, No. 1150, and see p. 81, No. 1257.

It would be obviously impossible to put this complicated machinery into motion upon the occasion of each subsequent step in the devolution of title. On the other hand, it appears to us that final and conclusive conveyancing, unless as the result of a judicial investigation of title, after argument of any questions which may arise in the course of the inquiry, is eminently unsafe. We were referred by a witness (*a*.) to a case which illustrates the danger of such a system, in which it appears from the Record that two persons were in 1867 recorded as joint owners of land under a will, the legal effect of which was to create a tenancy in common, and that a power to charge the lands with £1,000 was omitted from the Record. The mistake was not discovered until 1878, when it was found more advisable to make an order in the nature of a declaration of title than to record the intermediate transactions.

In cases of evident difficulty the officer refers the matter to a Land Judge, by whom entries of devolution of title consequent upon the death of a recorded owner are made. Questions may, however, escape the attention of the officer; and the opinion of even the most eminent Judge loses much of its value unless given after argument. On the other hand, the argument of points arising in the devolution of title, some of which may possibly, in the course of events, become of no practical importance, would impose an intolerable burden on the transfer of property.

Difference between dealings in stock and land.

(*b*) Ap, p. 84, No. 1322, &c.

Feeling the unsatisfactory nature of the present mode of transferring estates on the Record, the Recording Officer has suggested (*b*) that the proceeding should be assimilated to that adopted in the transfer of Government Stock, and that the responsibility of making the transfer should be thrown upon the persons dealing with the lands. There is, however, this important difference between the two cases. The nature of a transfer of Government Stock is simple, uniform, and easily understood, whereas the estates in land capable of being conveyed by a legal assurance differ as widely as do the classes of assurances by which they may be conveyed, and the constructions of which these assurances are capable. It would be impossible to allow the persons interested to make whatever entry they pleased on the Record. For example, if a conveyance of a fee-simple estate intended to convey the fee, but omitting words of limitation, were produced to the Registrar, and the grantor attended for the purpose of registering the grantee as the owner of the fee-simple, the Registrar would be compelled to refuse to allow the transfer to be registered. In every case the duty must devolve upon the Registrar of seeing that the entry proposed to be made is in accordance with the legal construction of the documents. In all cases of difficulty the ultimate responsibility must devolve upon the Registrar, and we do not think that the objection to the present system would be removed by assimilating the entries on the Registry to those made upon the transfer of Government Stock.

Difficulty arising from the Record not being regularly kept up by owners.

The Recording Officer has also called our attention to another defect in the system in reference to the writing up the Record, which we also consider inseparable from this system. He states that the owners of Recorded estates do not take the trouble of entering on the Record each step in the devolution of title, as it occurs, but postpone the writing up of the Record until it becomes absolutely necessary to have it perfected for the purpose of an intended sale or mortgage. This would probably continue to be the case unless the possession of a Certificate were rendered necessary as a condition precedent to the reception of the rents and profits of recorded land, as the entry of the holder of Government Stock upon the Register is necessary in order to enable him to receive the dividends. But the impossibility of attaching similar conditions to the enjoyment of land illustrates the inconvenient consequences of attempting to assimilate kinds of ownership so essentially different as those of Government Stock and of landed property.

As to claim 3, viz. getting rid of investigation of title.

The third of the advantages anticipated by the Commissioners of 1857, is the "avoidance of the multiplication of deeds and other evidence of antecedent title." This question divides itself into two branches—the accumulation of Deeds or copies of Deeds in the Registry Office—and the necessity for investigating the prior title on the occasion of subsequent dealings with the lands. No doubt, the consequence of attaching the

character of indefeasibility to any entry of ownership made by the Recording Officer is to dispense with the investigation of the antecedent title. But, for the reasons already stated, we think that this advantage would be purchased too dearly. Further, we may observe that so far as the official custody of the Title-deeds is concerned, nothing would be gained by the adoption of the system of Registration of Title, for it is the practice of the Record of Title Office to preserve the original documents, which warrant the entries made by the Recording Officer. The objection to the system of Registration of Assurances, on the ground of the accumulation of Deeds in the Office has greater force in England, where it is calculated that 1,000 Deeds affecting land are executed every day, than in Ireland, where registrations average less than 60 per diem.

Would be purchased too dearly.

As regards the second branch of this question—the necessity for investigating the prior title on the occasion of subsequent dealings with the lands—that the investigation of title cannot safely be dispensed with appears, we think, from our observations in relation to the first and second of the advantages claimed for the system of Registration of Title. Recent enactments shortening the period for which title must be deduced, and the time within which claims will become barred by the Statute of Limitations, tend to diminish the number of antecedent transactions to be investigated on the occasion of each transfer.

And it cannot be safely dispensed with.

The fourth advantage anticipated by the Commissioners of 1857 is the simplification of conveyancing. If by simplification is meant shortening, it is, in our opinion, impossible to carry this process beyond a certain point without danger of obscurity; and the adoption of our recommendation that full copies of deeds should be lodged in the Registry will tend to discourage the use of prolix or useless forms. But, if by simplification is meant the adoption of forms suitable to a register of absolute title, it is, in our opinion, a sounder principle to adapt the system of Registration to the general course of dealings with land than to attempt to modify these dealings by the adoption of a system of Registration which does not accommodate itself readily to the ordinary transactions of owners of land. There has been of late a marked improvement in conveyancing in respect of brevity.

As to claim 4, viz.: simplifying conveyancing.

Danger of, and proper principle to act on.

The evidence of the witnesses whom we have examined on the subject shows a remarkable unanimity in condemning the system of the Record of Title. It appears that, even in point of expense, it has no advantages over the older system, and that a large landed proprietor, who was one of the principal advocates of the introduction into Ireland of the system of Registration of Title, and had announced his intention of placing his estates upon the Record, was deterred from carrying out his design by the expense which would be attendant on so doing. For all these reasons we are of opinion, as the result of our enquiry into the operation of the existing system of recording Title in Ireland, that the Record of Title should be closed, and the Recorded Estates remitted to the Registry of Deeds.

Record of Title condemned even as to expense.

Its abolition in Ireland recommended.

Although our disapproval of the Record of Title is based on the broad ground that the system of Registration of Assurances is, in our opinion, preferable, yet there are distinct reasons why the present system should be discontinued in Ireland. The Record of Title is founded on the same principle as the Registry introduced into England by Lord Westbury's Act. This system was condemned in England by the Commissioners of 1868, and has been superseded by the Registry established there by the Act of 1875. This latter Act has proved a failure, and even if we regarded the Registration of Titles with favour, we could not recommend the establishment in Ireland of a system of Registration which has obtained no support from the public in England, where the want of a system of Registration is widely felt, and where the alternative of a General Registry of Assurances is not offered to the proprietors of land.

The similar system in England condemned in 1868.

The Operation of the Present System of Registration.

Having arrived at this conclusion we next proceeded to consider the operation of the present system of the Registration of Deeds, Conveyances, and Wills, and the alterations and improvements which may be made therein, and in the laws and practice regulating and affecting the same.

We have found that the opinions of all the persons whom we have examined, whose evidence will be found in the Appendix hereto, concur in a general approval of the existing system of Registration. It has been now for upwards of a century and a half in operation, and not only was it well devised in its inception, but it has been carefully worked and steadily improved during that long period. Several statutes have been passed from time to time to provide for the introduction of alterations considered to be desirable.

Generally approved of.

The Registrar.

The Registrar, who was examined by us, and who has furnished us with much valuable information and many important suggestions, appears to have given great attention to the working of the office, and to conduct the administration of it with intelligence and zeal.

The staff.

The Staff of the Office is thoroughly trained for the discharge of its various duties, and its efficiency, skill, and carefulness have merited and obtained the confidence of all persons who have occasion to avail themselves of its services. The procedure of the office as to registering instruments has been so often set forth in former inquiries* that it is unnecessary for us to re-state it here; but it will be found in the Appendix in the Returns made to us by the Registrar (Ap., p. 121), and the improvements in it which have occurred to us as desirable, are chiefly matters of detail.

Impediments to it: (1) Registration of Instruments not dealing with Land.

We find that although the system was devised solely for the registration of instruments, dealing with land, (as to which only such registration is of any avail), a practice has sprung up of registering instruments of every description whether relating to lands or not. This has tended to incumber the Register with much useless matter which impedes both registration and searching. The Registrar finding this practice inveterate has not felt himself at liberty to refuse to receive instruments not relating to land, although they clearly are not within the scope of the statutes relating to the office. We

Recommendation.

are of opinion and recommend that instruments not appearing on the face of them to relate to lands, or charges on lands be not in future received for registration.

(2) Omission in Deeds of the locality of lands.

Another and a still more serious impediment to the working of the system arises from the omission to specify, in Instruments or Memorials brought in for registration, the local division in which the lands with which they deal are situated. It is of course necessary for registration that Instruments be classed according to localities, and for this purpose in Ireland such Instruments are by the Statutes directed to be classified by Counties and Baronies, or, when situated in Cities or Towns, by Parishes or Streets. In many Instruments the premises comprised are mentioned by name, without any specification, in some cases, of the County, in still more of the Barony, and in

Effect of.

others of either County or Barony. These omissions render necessary the keeping of

No Barony and General Acts Books.

separate books, called the "No Barony Book" and the "General Acts Book," in which separate searches must be made. The 2 and 3 William IV., c. 37, ss. 29 and 30, was intended to remedy this mischief, but the decision of Brady, *L.C.*, in the case of Gardiner *v.* Blesinton, that under the 29th sec. Instruments must still be admitted to registration, although the Memorial omits to state the Barony and County, if a similar omission exists in the Instrument itself, has rendered these provisions nearly inoperative. There are also many cases in which the Instrument does not set forth the names of the lands intended to be dealt with, but only mentions generally the lands of the grantor in a particular Barony or County, or in some instances the lands of the grantor in Ireland, or the lands of the grantor generally. In such cases the registration can be recorded only in the General Acts Book. We do not propose that Instruments in which such defects of description exist should be altogether excluded from registration, but we are of opinion that until the defect is supplied by the parties bringing them in for Registration in the manner hereinafter mentioned, they should not be registered.

Recommendation.

We therefore recommend that an Instrument be admitted to Registration only as to those lands which in the abstract thereof brought into the Office, are specified by the names of the Townlands as hereinafter mentioned, together with the Barony and County, or the City or Town and Parish (as the case may be) in which such lands are situated; and that an Instrument shall be entered in the Names Index or Abstract Book, only as to the lands so described in the Abstract.

(3) "Alias" denominations.

Another impediment exists in the number of names for the same parcel of land, commonly called "alias" denominations, which are very commonly used in conveyances, each one of which renders a separate entry in the Indexes for each alias denomination necessary. They are most frequently found in names in the Irish language differently spelled in the attempt to express them in English. The sound of the name is very frequently the same, or nearly so, but the most trifling difference in the spelling of it obliges an entry of each such word to be separately made, as if it represented a different parcel. For the purposes of the Ordnance Survey of Ireland, on which only one name appears for each Townland, very great pains were taken to ascertain and correctly spell the names to be placed on the maps. All the different, or differently spelled, names of each Townland were collected under the head of that Townland, and all these were submitted to a learned Irish scholar, who decided on the most appropriate designation, and the correct spelling of it, and thus the names used by the Survey were fixed and appear on all the maps. We are of opinion that it would be a very great improvement if these names were adopted as standard names to be exclusively used for the purpose of Registration. This proposal has not met with universal approval from the persons

Ordnance Survey names of townlands carefully fixed, and their adoption for registration recommended.

* See Report of R. J. Lane, esq., q.c., in 1861; Report of Messrs Law and Chisholm in 1865; Statute of 2 & 3 Wm. IV., ch. 87 and Schedules, and Pamphlet by Lieut Colonel Leach in 1861.

whose evidence on the subject we have taken, but we think that the objections to it are based very much on the supposition that it would give in this way to the Survey some effect as to the extent and boundaries of the land expressed by these names. This is, however, a mistake, as we cannot see how calling a piece of land, whatever it may contain, by a single name, instead of calling the same piece by several synonyms, can possibly affect its acreable extent. Such names are not intended to be connected in any way with the Survey maps, but to be adopted as if arrived at by the process by which the Survey arrived at them, without going through the same process again. Undoubtedly the maps may be referred to for the purpose of assisting in the ascertainment of the Townlands in which the lands dealt with are situated, but they would have no further connection with Registration. These names have been adopted by the General Valuation Office in the Tenement Valuation Lists of each County deposited with the Treasurer and with the Clerks of each Union: and the boundaries of each Townland are clearly shown on the Maps therein referred to; they are used too by the Board of Works, for Loans under the Drainage and Lands Improvement Acts. An Alphabetical List of all of them as in the Ordnance Survey, in Dictionary order, was published by the Census Commissioners in 1877. They appear upon the receipts for Poor Rates, County Cess, and other taxes payable out of land, are universally used for rating purposes, and are thus now familiar through the country. In order to remedy any possible inconvenience from thus requiring them to be used for Registration, we recommend that the Ordnance Survey Department should publish a statement in Dictionary form of the names of the Townlands mentioned in the Ordnance Survey, with all their alias and sub-denominational names, which should for convenience be divided into Counties and Baronies, and each part sold separately to the public at a moderate price. We understand that materials exist in the Ordnance Survey Department from which such a statement can without difficulty be prepared. It would also be convenient that a copy of the part or parts of such list relating to each particular district should be kept for reference in the offices of the different Public Departments and Poor Law Unions. We recommend that no names of Townlands shall be received for Registration save those by which the Townlands are designated on the Ordnance Survey maps.

Objections made under mistake;

They are adopted in all public matters.

Dictionary index of them with their "aliases" recommended;

and that they only should be used for registration.

The mode which we propose for supplying the defects above referred to, caused by the omission of the names of the lands intended to be affected, or of the county, barony, town, or parish, in which they are situated, or by the use of names other than those used in the Ordnance Survey, is as follows, viz.: that when an Instrument brought to the Office for Registration does not state the Barony and County or the City or Town and Parish (as the case may be) in which the premises thereby affected are respectively situate, a certificate shall be endorsed on the Instrument, and a duplicate of such certificate shall be lodged in the Registry of Deeds Office, signed by the party on whose part application for registration is made, or his solicitor, supplying such defect; and in like manner when the Townland names as used in the Ordnance Survey are not stated in the Instrument, or only denominations other than such Townland names are contained therein, the Ordnance Survey names shall be stated in a like certificate; and that when any such certificate shall be used an additional fee shall be charged for registration.

The omissions of descriptions how to be supplied.

We recommend the imposition of this additional fee for the purpose of providing some check upon the irregularities thus sought to be remedied, and also of paying for the additional time and trouble which will be thus required from the Office.

The Form of the Memorial.

We have also considered the form of Memorial for Registration now commonly used, with respect to which we report the following considerations:—

Statutory requirements of memorials.

The memorial prescribed by the Registry Acts must contain—1. The date of the instrument; 2. The names and additions of all the parties to it if other than a will, and if a will the name and addition of the testator; 3. The names and additions of all the witnesses to the instrument; 4. The lands contained in the instrument; and 5. The counties and baronies, and the cities, towns, and parishes where the lands are situated. These particulars are subject to this qualification, that they are required to be set forth in the memorial only so far as they are contained in the instrument itself. In addition to these general requirements, it is necessary in cases coming within the 15 sec. of the 6 Ann, c. 2, namely, when the conveyance or security consists of more instruments than one, that the memorial shall contain the places of abode of the parties and witnesses to the conveyance or security; and in cases coming within the 8 Geo. I, c. 15, namely, when instruments are registered after the death of the immediate grantees or devisees, such grantees or devisees not having executed the memorial, that the memorial shall state the place of abode of each subscribing witness to the memorial who is not a subscribing

Subject to qualification.

witness to the instrument itself. These statutory requirements are very few and simple, and could easily and conveniently be given in a short and concise tabular form. But memorials have in practice assumed a very different form, and almost always consist of a statement more or less full of the contents of the instrument. They are generally prepared by slightly altering a draft or copy of the original instrument down to the end of the habendum, setting out the recitals in full, as also the granting part and parcels. It is a matter of common occurrence that instead of stating the consideration mentioned in the instrument, the memorial says "for the considerations therein mentioned," and that it deals in a like way with all limitations and trusts, none of which in a large proportion, if not in a majority of cases, are stated in the memorial, but merely referred to as "the uses and trusts therein mentioned." When the instrument and its memorial are brought to the Registry Office they are carefully compared as to the statutory requirements, but as to nothing else, and there is no attempt made to ascertain whether they correspond in other respects, nor would the Registrar have any authority to reject a memorial provided these statutory requirements are complied with, even though the memorial contain the most erroneous or even false representation of the other contents of the instrument. Still, notwithstanding these defects, the present form of memorial is much valued by conveyancers in Ireland, as affording assistance in deducing titles to land, and by legal practitioners generally as affording secondary evidence of the contents of lost instruments. It will be found that the opinions of the majority of the persons whom we have examined or consulted on the subject, as appears by the Appendix, are opposed to doing away with such memorials.

How departed from in practice.

Comparison is only made as to statutory requirements

Other uses made of memorial.

Objections to memorials.

There can be no doubt that, however convenient such memorials may for some purposes be, they go far beyond the statutory requirements of registration, while they fall equally short of affording full or reliable information of the nature or effect of the instrument registered. If the only purpose of registration is to give notice to any party proposing to deal with a particular portion of land that some act, in some undisclosed way affecting it, has been executed by a person purporting to deal with it, then all that need be required is to produce a memorial limited to the mere statutory requirements. Finding such notice on the Registry is enough to put the intending purchaser or lender upon enquiry. This is the policy of the Irish Registry Code, and it possesses, no doubt, some important advantages, namely, greater cheapness, expedition, and conciseness of registration.

Insufficiency of the present Register.

But a Register so constructed falls short of that completeness which many consider the Register ought to possess, as it is not possible to learn from it, save in a very vague and unreliable way, at the most, what is the nature of the dealing indicated upon it. It sometimes happens that an act so indicated cannot be explained, and the fact of its being registered renders what may be a perfectly good title unmarketable. But, beside this, such a system would deprive parties of all those secondary advantages which are so much valued as we have above mentioned, and the benefits of which are conclusively proved by the introduction and almost universal use of the expanded form of memorial.

Correct abstract would be best remedy,

but could not be carried out, and why,

If the Register is to be continued for affording a means of ascertaining the nature of the registered acts, of making out of titles, or of supplying secondary evidence, it is of manifest importance to endeavour to secure that the information given by it should be full and reliable. If it were possible to effect this by making the memorial a correct abstract of the instrument, setting out all its material parts concisely as in a well-drawn Abstract of Title, this would, in our opinion, be the course to recommend. But the difficulties of carrying it out would be practically insuperable. The preparation of such an abstract would require great skill and care, which should be highly paid for, and would be therefore expensive; and, what is still more important, it would throw upon the Registry Office the duty and responsibility of seeing that the abstract was correct in every particular. The Office as at present constituted is not adapted to such a task, and the time which would be so occupied would so seriously interfere with the discharge of its primary duties, and cause such delay in the registration of instruments, as to prevent its being attempted.

and therefore a deed or copy should be substituted for memorial,

Objections made to doing so.

There remains, therefore, only the plan already frequently suggested, and which has received the support of former Commissions of high authority*, namely, that for the memorial should be substituted either the original deed or a duplicate of it, or else a full copy duly authenticated. There is a great difference of opinion on this subject, not only between the persons who have formerly considered it, but between those whom we have examined upon it. The objections raised to it are, first, the supposed additional expense; secondly, the publicity that would thus be given to dealings with property; and, thirdly, an objection that concerns the office, namely, the additional time and trouble that would be occasioned when a copy was lodged, of comparing it with the

* Real Property, Second Report, p. 31, 1830. Registration and Conveyancing, 1850, p. 8.

original, which it has been said would much delay the process of Registration. As to the first of these objections, we are of opinion that in deeds of ordinary length the expense of preparing a copy would not be greater than that of preparing a memorial in the form now used. It does not require skill, and can be done by any law stationer or common writing clerk. It could be written on paper of a quality, size, and shape to be prescribed by the Registrar, and when bound and stored as carefully as memorials are at present, would be as durable as necessary, and would take not much more room than memorials now take. In the case of unusually long deeds, it may fairly be presumed that the lands dealt with are of a value that would render the cost of a copy a matter of little moment to the parties. Any additional cost would perhaps tend to shorten deeds, which would be very desirable.

(1st) as to expense;

The second objection appears to us to be more imaginary than real, and may be in a great measure obviated by imposing restrictions on the access to such documents. This might be effected by requiring the special leave of the Registrar on satisfying him of the object of the party desiring the inspection, and payment of a moderate fee. But it seems difficult to allow such an objection to prevail in the case of the Registry of Deeds Office, when any person on payment of a shilling is allowed, without any restriction, to inspect in the Registry of the Probate Division any will proved there.

(2) as to publicity;

The third objection would be met by requiring an abstract of the instrument confined to the same particulars as those contained in the abstract books now made out in the Office, and prepared in tabular form, to be brought in with the instrument. This would supply in a concise and very convenient shape all that need be recorded on the Register, and would fully answer all the purposes of the abstracts now made in the office. The process of registering could be effected by means of such abstracts in less time than at present, as they need only be copied into the Abstract Book and filed.

(3) as to additional trouble in the office;

remedy that party should bring in abstract;

The comparison of the copy with the original instrument should be a separate process which would take place after the registration of the instrument. If this copy were also to be transcribed in the office as memorials now are, it would, of course, occupy more time, and cause additional expense; but such copies could be cheaply and expeditiously made by the process recommended to us by Colonel Leach, called the Aniline process, or some similar one, which would ensure a perfect duplicate of the document so copied. All original deeds, or copies of deeds, deposited should then be bound up in volumes, and the copies made in the office be also bound, as transcripts of memorials now are, all having been marked with the year and consecutive number for reference.

and copies might be multiplied;

It has been suggested that it might be left optional with the party registering an instrument to confine himself to the abstract only, or to deposit also the original or a copy. We do not concur in this view, because, if adopted, there would be no uniformity in the process of registration, and the Register would fail to secure those advantages for which alone we think it advisable to require anything to be done beyond registering the mere statutory requirements.

As to giving option to party to register the deed or abstract.

The Abstract at present is made in the Registry Office by highly qualified clerks, and as it is the foundation of the whole system of indexes it requires to be prepared with great accuracy and skill. If an Abstract is to be substituted for the Memorial, as we propose, it must be prepared outside the Registry Office by the party bringing in the Instrument for registration, and if it is to be substituted for the Abstract now made in the Registry Office it is evident that the Office should not be responsible for its correctness, beyond seeing that it purports to comply with the statutory requirements, and that it corresponds with the deed as to the names and description of the parties and the names of the parcels. Everything else must take place on the responsibility of the party who brings it in. The Registrar should be responsible for the indexing of the Instrument only as it is represented in the Abstract. We do not think that this would impose any undue burden on the party, while it would relieve the Office from a responsibility to which it should not be subject No one could be injured by an omission or mistake but the person who had made it, for as regards other persons afterwards dealing with the same land by registered assurance the prior Instrument would simply be unregistered, as regards the omitted grantor or parcel of land. We cannot recommend the imposing of the duty of making out Abstracts on the Registry Office in case Memorials are discontinued, as then they should be made from the original Deeds, a process which, besides imposing undue responsibility on the Office, as we have said above, would also greatly delay the construction of the Indexes. As a consequence of the foregoing propositions we recommend that instead of the form of Memorial now ordinarily used, an Abstract of the Instrument, confined to the statutory requirements for Registration, shall be adopted; that it shall be prepared in a prescribed form similar to that of the Abstracts now pre-

Abstract, as suggested, to be prepared by party

and office to be responsible for statutory requirements only;

to be in prescribed form and contents.

pared in the Office without the columns for the name of the Instrument and the consideration, but setting out in separate columns, (*a*) the names of the parcels as stated in the Instrument; and (*b*) the names of the Townlands on the Ordnance Survey Maps, and that it shall be certified to be correct by the party bringing in the Instrument for Registration, on whom the responsibility for its correctness shall lie; but that it shall be compared in the Office with the original Instrument as to the names and descriptions of the parties, and the names of the parcels, and rejected if found incorrect; and that there shall be also brought in a copy of the Instrument, certified in like manner, which shall with the original Instrument be left in the Office for comparison, and be there compared with the original, and, if necessary corrected by the Officer, and that such copies shall be retained and preserved in the Office, and the originals shall be returned.

Comparison, and correction of.

Proof of Instruments and Memorials for Registration.

Present proof;

The present system of proving Instruments and Memorials for the purpose of Registration has also been considered by us. The proof now required is an affidavit called "the affidavit of perfection," which must be made by one of the attesting witnesses to the Instrument who must also be a witness to the Memorial, and must prove the execution of the Instrument by one or more of the grantors, and of the Memorial by any grantor or grantee. On this affidavit the Instrument is registered as the act not only of the party or parties whose execution of it is so proved, but also of every other party named as a grantor, even though the Instrument, on inspection, is found not to have been executed by any grantor save him whose execution is proved by the Affidavit. Thus an Instrument may appear on the Registry as if executed by a number of grantors when it may never have been executed by any of them save one, and he may be a merely formal party, having no substantial estate in the lands. This anomaly has been complained of by the Registrar, but he considers that he has no power to confine the Registration to the parties whose execution has been proved. The objection could be remedied by restricting the Registration to the names of the grantors whose execution is proved by the Affidavit of perfection, but it was stated by some of the parties whom we have examined that this would be productive of considerable inconvenience, as it would be necessary to delay the Registration till all the grantors whose execution of the Instrument was material to have registered, should have executed it, and their execution should have been proved by Affidavit.

result of;

objection to;

This in some cases would, no doubt, produce delay, and might render several Affidavits of Perfection necessary. But we are of opinion that the objections to the present practice are so strong that the inconvenience apprehended from a change of it does not afford sufficient reason for its continuance. At present, a Deed purporting to be a Conveyance by A and B, executed only by B, but registered as the act of both, creates a cloud upon the title of A, who may never have heard of it. This cloud cannot be removed from the Register, even if A becomes aware of it, but must remain to be explained away by A in every subsequent dealing with the lands. No doubt, a reference to the Deed itself would show that he had not executed it, but the Deed would not be in his custody, or, possibly, in his procurement. The copy of the Deed lodged in the office would show on reference to it that A had not executed the Deed when registered, but as he might have executed it the next day, he would be bound to show the party with whom he was about to deal that he had not done so. All this might happen after the lapse of many years, and when A and every other person concerned might be dead, and the persons claiming under A might find it impossible to prove that the Deed had not been executed by him. Again, A may have executed the Deed after its registration, but having in the meantime executed some other Conveyance affecting his estate. A controversy might arise as to the priorities of these Conveyances, which would involve much difficulty and expense.

and examples of inconvenience of present system.

All these objections would be obviated by registering the Instrument only as the act of the parties proved to have executed it. There would be no difficulty in registering it at different times against the different Grantors as their execution was proved, the date of such registration appearing as to each. It would not involve any greater number of entries on the Names Index than at present, and in the Lands Index it would only be necessary to add the names of the additional Grantors in the entries already made, with the date of registration as to each. If the power of registering an Instrument provisionally, as recommended by us in this Report, (*a*) be adopted, it would afford another means of avoiding the inconveniences apprehended.

Objections obviated by registering only against party whose execution is proved,

(*a*) p xxxiv.

The certificate of registration written on the Instrument should be confined to the parties against whom it was thus registered, and a further certificate could be added as further registrations were effected. This would be essential if the Registrar's cer-

and certificate of registration against him only.

tificate be made conclusive as to the date and validity of registration as afterwards recommended by us. The certificate in its present form makes no distinction as to the parties, but states the Deed as duly registered generally. This presents an additional objection to the present practice of registering against all parties whether they have executed or not.

Recommendation accordingly.

We therefore recommend that an Instrument shall be entered on both the Names and the Lands Indexes only as the act of the persons whose execution shall have been proved by an Affidavit of Perfection. In consequence of the change in the form of the Memorial, or rather the substitution of an Abstract for a Memorial, above recommended, the Affidavit of perfection should be confined to the execution of the original Instrument.

Affidavits of perfection to be continued;

We do not recommend that Affidavits of perfection should be dispensed with, as some have suggested. We consider them a protection against attempts to bring upon the Registry Deeds not executed by any grantor, and that they are especially required for the authentication of Memorials or copies to be used as secondary evidence of lost Instruments. We are of opinion that the present requirement that they should be made by one of the attesting witnesses to the Instrument, should be continued as the general rule, but we recommend that when it is shown to the satisfaction of the Registrar that by reason of the death, incapacity, refusal, or absence from Ireland of the attesting witnesses, or for other sufficient cause, such an Affidavit cannot reasonably be procured, the Instrument may be admitted to registration, on proof of the signatures of one or more of the grantors by the Affidavit of some person acquainted with the handwriting, and who shows sufficiently by the Affidavit his means of knowledge.

but other proof in certain cases;

and affidavits should not be made in the office,

An inconvenient provision exists in the Acts regulating the practice of the Office, by which these Affidavits are made, in the case of Instruments executed in Dublin, before the Registrar or an Assistant Registrar in the Office when the Instruments are brought in for Registration. In other cases the Affidavits are made before Commissioners of the High Court of Justice, or other persons authorized to take affidavits. The present practice is a source of much delay and trouble in the office, and is justly complained of by the officers. It has no advantage over the method in force as to Country Deeds, and no reason exists for its continuance. We are of opinion that it should be abolished, and that still further facilities should be given for the taking of these affidavits at home and abroad. We therefore recommend that Affidavits of perfection be no longer taken by the Registrar or Assistant-Registrars, but that the same be made before any person authorized to administer oaths.

but before anyone authorized to administer an oath.

Registration of Wills, Letters of Administration, and Heirships.

Defect in present registration of wills.

The subject of the Registration of Wills has also been considered by us. Under the statutes in force as to registration, though provision is made for the registration of wills, the omission to register them is not attended with the consequences of a like omission in the case of acts *inter vivos*. We are of opinion that this is a defect which should be remedied, and that, with certain safeguards against depriving a devisee of his just rights, protection against an unregistered will should be afforded to a *bonâ fide* purchaser from an heir-at-law, or from a devisee under a prior registered will, which has been revoked by the unregistered will. The necessity for caution in providing this remedy is apparent from the difference of the considerations affecting wills and those affecting instruments between parties. In the case of the latter the persons whose interest it is to have them registered are almost always made aware of their rights by the transaction itself. In the case of the former it may not be discovered by the devisee that a will exists till long after the death of the testator, and during this interval, which may continue for years, the devisee who is the rightful owner may have been out of possession and ignorant of his rights, and the heir at law, or the devisee, under a revoked will, may have been in possession of the estate, and dealing with it as its rightful owner, either innocently without knowledge, or fraudulently with knowledge, of the existence of the true will. We do not consider that it would be just to allow registration to operate in any case between the true devisee and the heir-at-law or prior devisee, but as between *bonâ fide* purchasers for value by registered assurance from the heir if in possession, or the devisee under the revoked will if possession has gone according to it, and the true devisee, we think protection should be given to such purchaser. We are, however, of opinion that this protection should not take effect until a reasonable time should have elapsed from the death of the Testator, and we think that five years would be a reasonable time for this purpose. As an additional protection we recommend that the Registered Conveyance of an heir at-law,

Recommendation that purchasers from heir or devisee should be protected after five years,

if will established, by decree of Court;

or of a devisee under a will, afterwards found to have been revoked, should not by its registration defeat the estate of a devisee under the unregistered last will of a Testator unless a judgment, decree, or order of the High Court of Justice, or of some other competent judicial authority, that in the one case the ancestor died intestate, and in the other that the prior will was the last will of the Testator has been previously obtained and duly registered, and we think that provision should be made to enable a devisee who has been injured by such Conveyance to recover compensation from the person who conveyed the estate.

but devisee should recover compensation from grantor.

We recommend, that a Will affecting real estate, if proved in the Court of Probate, shall be admitted to registration on production of the Probate thereof, or of Letters of Administration with such Will annexed, or of an Office copy of such Probate or Letters of Administration; and that an unproved Will shall be admitted to Registration only upon its being lodged in the proper Office of the Court of Probate for safe custody, and on production to the Registrar of Deeds of an Office copy of such Will certified by the proper officer of the Probate Court; and that for the purpose of the Registration of any Will, an Abstract thereof in a prescribed form, stating the date, and name of the Testator and his description (if any) as appearing in the Will, be lodged with the Registrar of Deeds. The Certificate of Registration should be given upon the copy so produced, which should be returned to the person who brought it in for Registration.

Will, how to be registered.

Intestacy, heirship, and letters of administration not to be registered.

We do not consider it expedient to require or permit the Registration of Affidavits of Intestacy or Heirship, or of Letters of Administration. The only object of registering them would be to afford some evidence that no Will had been made. It would, in our opinion, be practically useless as a safeguard; and as such documents would not be acts dealing with specific lands, they could not be registered in the ordinary Lands Indexes, and would thus require the continuance of the No Barony books and General Acts books, which it is so desirable to get rid of.

Registration of Equitable Mortgages by Deposit of Deeds.

Law as to;

We are of opinion that the law as to the Registration of Equitable Mortgages by the deposit of Title Deeds should be amended. The present law on the subject is, that if such deposit is accompanied by a writing, stating the purpose of it, the case is within the operation of the Registry Acts; but that if there is no writing, it is not; and it has been held that a charge on lands, created without any writing, will take precedence of a subsequent Deed duly registered. We recommend that Equitable Mortgages by deposit of Deeds, should, if not registered, be postponed to Registered Instruments, and that for the purpose of registering them there shall be a memorandum signed by the Depositor, stating the fact and date of such deposit, the names of the parties to the transaction, the names of the lands intended to be charged, and the amount, or limit of the amount, of the money intended to be secured, an abstract and copy of which shall be prepared, brought in, and dealt with in the same manner as Abstracts or Memorials of other Instruments.

alteration recommended;

and effect of.

This change in the law would still leave it open to parties to deal by Equitable Mortgage without writing, if they so think fit, and would only prevent the mischiefs that at present result from allowing such transactions to affect rights acquired under registered instruments. It would tend materially to discourage the use of securities without written evidence of their terms, a consequence which we consider would be very beneficial.

Registration of Judgments, Decrees, &c., and Statutory Transfers, Private Acts of Parliament, and Conveyances by and to the Commissioners of Woods and Forests.

How to be registered.

We recommend that Judgments, Decrees, and Orders of the Chancery Division of the High Court of Justice, which have a Statutory operation to transfer lands, and certificates of the appointment of Assignees and Trustees in Bankruptcy, and vesting orders in arrangements under the Court of Bankruptcy, should continue to be registered as instruments affecting lands in the same manner as at present, except that when they do not specify the names of the lands affected thereby, they should be registered in the Names Index only, and that as to lands named therein, they should be entered upon the Lands Index under the same regulations as those we have above advised in reference to Deeds. Private Acts of Parliament dealing with estates in land and conveyances, by and to the Commissioners of Woods and Forests, should also be registered in like manner.

Improvements under Landlord and Tenant Act, 1870.

We do not consider that there is any necessity for registering in the Registry of Deeds Office the Schedules of improvements under the Landlord and Tenant (Ireland) Act, 1870, which are now registered in the Court of the Land Judges, as they do not create any charge upon or interest in lands, and if registered in the Registry of Deeds Office would uselessly incumber the Register. Not to be registered.

Registration of Instruments Lost or Destroyed.

Under the present system of Registration it is not possible to register an instrument which has been lost or destroyed, no matter how clearly its having been in existence, its loss or destruction, and its contents may be proved. We are of opinion that this defect may and ought to be removed. It would not in our opinion be advisable to impose upon the Registrar the responsible duty of deciding in what cases Registration, under such circumstances, should be permitted, and we recommend that an order of a Judge of the High Court of Justice should be obtained for the purpose by the party desiring such Registration. This could be conveniently applied for in a summary way, on sufficient proof of the execution, contents, and loss of the instrument, to one of the Judges of the Chancery Division in the case of all Instruments except Wills, and in the case of Wills, to the Judge of the Probate Division; and a copy of the Judge's order together with an abstract of the Instrument in the prescribed form, and approved of by the Judge, should be lodged with the Registrar, and noted in the entry of the Instrument in the Register. Defects in present system as to. Remedy for. Application to a Judge.

Cases may also occur where, from other causes, it is not possible to effect a Registration under the prescribed system of the office, and where still it may be just to permit such Registration to be effected. We recommend that authority be given to the Judges of the Chancery Division of the High Court of Justice, on application made to them for the purpose, to order that such Registration may be effected in such circumstances and on such terms as may appear just. Proof should of course be given of the execution and contents of the instrument, and of the circumstances which render it impossible to register it without such order. We are of opinion that it would also be desirable that in the case of a refusal by the Registrar to act, a person considering himself aggrieved thereby should have an opportunity of applying at his own expense to a Judge of the Chancery Division in a summary way for a direction to the Registrar upon the subject. And in other cases of impossibility to register. On when Registrar refuses to act.

In many cases injustice has been done to parties claiming rights to and charges upon land under registered Instruments, by reason of defects in the Registration of such Instruments which courts have held to render such registration invalid. These defects have been frequently of a merely technical nature, by which the persons relying upon them could not have been misled, and yet even after a lengthened enjoyment innocent parties have been thus deprived of their properties or lost the priority of their incumbrances, and, with such priority, their money honestly advanced. We are of opinion that this should be prevented in future, and that the certificate of Registration upon the Instrument, signed by the proper officer, should be made conclusive evidence of the validity and date of the Registration. We find a precedent for this in the Joint Stock Companies Acts, by which the certificate of the Registrar is made conclusive evidence that all the requisitions of the Acts, in respect of Registration, have been complied with. Technical defects in registry should be inoperative, and certificate made conclusive.

Notice—Different Kinds and Effect of.

Another and a very important subject in connection with the Registration of Assurances has also occupied our attention, namely, the operation of the equitable doctrine of notice. The question arose soon after the first establishment of a Registry of Assurances, how far the priority acquired by registration was defeated by notice of a prior unregistered Assurance. It was held in Courts of Equity,—on the principle that a statute intended as a safeguard against frauds should not be converted into an instrument of fraud,—that actual notice of a prior unregistered Assurance should deprive a party having such notice of the priority which his registered Assurance would acquire by its registration. Law respecting and effect of.

There are different kinds or degrees of equitable notice, actual and constructive, direct and indirect. Actual notice direct to the party claiming under the registered Instrument is the highest kind, and its effect should not, in our opinion, be altered. Constructive notice, implied from a knowledge of other facts, or from a wilful abstinence from inquiry, which Courts of Equity have in other cases deemed equivalent to actual notice, does not affect the statutable priority acquired by Registration. Indirect notice, namely, actual notice to the agent of the party, not communicated to his principal, has been deemed (1) Actual. (2) Constructive. (3) Indirect.

actual notice to the principal, and has as such been held to deprive him of the priority which prior registration would otherwise confer.

The effect given to notice an infringement.

We do not consider that this state of the law is satisfactory. The effect given to actual notice is a serious infringement both on the letter and the spirit of the Registry Acts, and although the rule has had the support of great Equity Judges, it has been regretted by many others, also of high authority. The imputation to the principal of notice to the agent has in many cases worked great injustice to innocent parties. We recommend that the law should be altered by enacting that the statutory priority acquired by Registration should not be defeated by the mere fact of notice of a prior unregistered Instrument, but that this should not interfere with the power of the Court to relieve on the ground of actual fraud. What constitutes such fraud must be determined upon the facts in each particular case, and though actual notice would not by itself establish it, still such notice would be a material element in the determination. This recommendation has the sanction of several Commissions (*a*) and Parliamentary Committees (*b*) who have already investigated the subject, and was embodied in the Act of 1850, s. 30. Its adoption would encourage the immediate Registration of Assurances in all cases, as notice could no longer be reckoned upon to relieve persons claiming under unregistered instruments from the consequences of their neglect.

Alterations in law recommended.

(*a*). 2 R. Prop., 1830 Registration and Conveyancing Rep., 1850.

(*b*). H. of Com., 1878-9.

Caveats, Inhibitions, and Provisional Registration.

Inconvenience of the strict rules as to priority.

The rigid rules as to priority, which are a necessary part of every system of registration, are in certain cases a source of danger and inconvenience. For example, a period must intervene during the carrying out of a contract between the completion of the Official searches and the registration of the Purchase Deed, during which protection can only be obtained by means of inquiries of a troublesome and unsatisfactory character. Protection is sometimes obtained against this danger by the registration of a preliminary agreement. But contracts of this kind are often contained in letters or in some other form unsuitable for registration, and it is not desirable that the Register should be permanently clogged with Acts which are only of a temporary nature.

Caveats.

The system of caveats suggested by the Real Property Commissioners in their second report, published in 1830, approved of by the Registration and Conveyancing Commissioners in their report, published in 1850, and embodied in the Irish Act of 13 and 14 Vic., c. 72 (known as Sir J. Romilly's Act), appears to us to be an effectual mode of protecting the parties to a pending contract. A caveat would be a document executed by the owner of specified land in favour of one or more persons therein named. It should be entered in the ordinary books as a caveat, and its effect should be to prevent the registration of an instrument executed by the person giving the caveat from having any operation during a limited period—say three months—as against an instrument registered within such period by the person or persons in whose favour the caveat is given.

What.

Effect of.

The purchaser, who had taken the precaution of obtaining the signature of a caveat by the owner of the land, and who lodged this caveat for registration, together with his requisition for a search, might pay over his money, and complete the transaction with perfect security; and the caveat, after the expiration of the period of its operation, having done its work, would no longer be returned on a search. Caveats might also be usefully employed when time is required for the execution of a deed by different parties. We therefore recommend that a system of caveats on the principle of that provided by the Registration of Deeds (Ireland) Act of 1850 (13 and 14 Vict., ch. lxxii.), ss. 41 and seq., be adopted.

The system of Caveats in 13 & 14 Vic., c. 72, recommended.

Inhibitions not required, and why.

We do not think it necessary to adopt the system of Inhibitions contained in that statute. When it was passed, the institution of proceeding in Chancery was a more tedious process than at present, and we think that all the purposes of a registered Inhibition would be attained by the issuing of a writ of summons under the new practice and the registration of it as a lis pendens against the lands intended to be affected.

Provisional registration, its use and effect.

We think that a system of provisional registration might be usefully introduced in order to afford protection to persons claiming under executed instruments, in cases where from a difficulty in ascertaining the Ordnance denominations of the lands affected, or from some other cause, it may not be possible to effect a perfect registration, during a period in which the purchaser would be exposed to the risk of the registration of some conflicting instrument. This provisional registration should become absolute if the statutable requirements were supplied within the prescribed time, otherwise it should become void *ab initio*. It might also be applied to cases in which the Registrar refused to accept an Abstract, and the person tendering the Abstract desired to apply to a

Judge, when the deed in question might be provisionally registered, pending the decision upon his application. Care should be taken to prevent the abuse of the privilege of provisional registration by requiring an affidavit as to the facts which rendered it necessary, and by imposing additional fees. We therefore recommend that a system of Provisional Registration of executed instruments, on the principle of that provided by the draft of the Registry of Deeds Bill (Ireland) of 1876 (ss. 53–55), be adopted. A system of, Recommended.

The Law of Judgments—The Registration of Them and Judgment Mortgages, Lis Pendens, Recognizances, Crown Bonds, &c.

The numerous statutes and decisions constituting the Law of Judgments in Ireland are stated in detail in the second report of the Chancery and Common Law Commissioners, and in the full statement upon that subject contained in their report. We do not consider it necessary to go over the same ground, and we proceed to state the general result of our inquiry into the law of judgments so far as regards the question of registration, including in the term judgment such decrees, rules, and orders as have the force of judgments under the existing law. Law of Judgments in Ireland.

A judgment in its origin was simply the judicial result of an action, enforceable in certain specified modes against the property of the person against whom it was obtained, and in this point of view the law of judgments is quite unconnected with the question of registration. But in Ireland a secondary use of judgments as securities for money became very general. The reasons why this prevailed to a greater extent in Ireland than in England in a similar state of the law are immaterial for the purposes of our inquiry; but the legal foundation of the use was the writ of elegit created by the Statute of Westminster, 2nd (13 Edw. I., st. i., c. 18), and subsequently extended by the Irish Statute of Frauds (7 Wm. III., c. 12, s. 7), and by Pigot's Act (3 & 4 Vict., c. 105). The power conferred upon the judgment creditor of suing out a writ of elegit, and of seizing the freehold lands of his debtor, although conveyed to purchasers for value between the recovery of the judgment and the extent, created a general, or, as it was called, a hovering, lien over the property of which the debtor was seized at the time of the entry of the judgment, although the judgment creditor did not obtain an actual specific charge on any portion until he sued out his writ, when he became "tenant by elegit" of the lands extended. Judgments originally. Secondary use of in Ireland. Origin of. Elegits.

It is obvious that a serious obstacle to the transfer of land was occasioned by the possible existence of judgments as to which purchasers had no means of informing themselves, but which would be enforceable against the lands in their hands. The Legislature, during nearly 200 years, has devised various modes of protecting purchasers against undisclosed judgments. The first protection afforded was the provision in the Irish Statute of Frauds, that as against *bona fide* purchasers for valuable considerations, judgments should bind land from the date of signing the judgment, as entered upon the margin of the Roll not, as formerly, from the first day of the term in which the judgment was recovered, or of the preceding term, if the judgments were recovered in vacation. But inasmuch as judgments duly signed might not be entered as of record, so as to be ascertainable by purchasers, a system of docketing was introduced by 3 Geo. II., c. 7, which recites the "damage and inconveniencys" (*a*) arising from undisclosed judgments, as regards purchasers and mortgagees, heirs, and personal representatives, protects such persons from undocketed judgments, and provides an alphabetical index of docketed judgments. The Re-docketing Act (9 Geo. IV., c. 33), introduced the principle of periodical re-registration. Inconveniences of. Various protections provided against Judgments (1) Docketing. (*a*) *sic.* (2) Re-docketing

In 1844, by the 7 Vic., c. 90, the system of docketing and re-docketing was abolished, and a consolidated Registry of Judgments was established. This Act provided for the registration in a single office of judgments, decrees, rules, orders, lis pendens, recognizances, crown bonds, &c., and for the periodical re-registration of Judgments and lis pendens every twenty years, a period which was reduced to five years by the 4th and 5th sections of the Judgment Mortgage Act (13 & 14 Vic., c. 29); but no provision was made for the periodical re-registration of Recognizances, Crown Bonds, &c., until the year 1871, when, by 34 and 35 Vic., c. 72, these securities were placed in the same position as to re-registration as Judgments and lis pendens. (3) Consolidated Registry of.

The Chancery and Common Law Commissioners had in their second report (p. xxiii.) called attention to the great complication and delay in searching caused by the number of books kept in this office. The ordinary search against a single name for Judgments, lis pendens, Recognizances, Crown Debts, &c., involved the examination of at least sixteen books, and could not be completed in less than ten days. The Act of 1871, by rendering the period of re-registration uniform, and by simplifying the books kept in the office, has greatly facilitated the process of searching, and it appears that a search similar to that which formerly occupied ten days can now be completed in a few hours. Former delay in searching for. Remedied by Act of 1871.

3 & 4 Vic., c 105.

While these protections were being devised in the interests of persons dealing with land, the nature of the lien obtained by the judgment creditor over the lands of his debtor also underwent a change. The general, or hovering, lien created hy the power of suing out a writ of elegit, was changed into a specific equitable charge by the 3 & 4 Vict., c. 105, assimilating the law in Ireland to the system which had been introduced in England by the 1 & 2 Vict., c. 110.

Judgment Mortgage Act.

The law remained on the same footing in hoth countries until the passing of the Judgment Mortgage Act (13 & 14 Vic., c. 29), in 1850, under which judgments in Ireland ceased to become operative as charges upon land by the mere fact of their recovery, and the writ of elegit was abolished as to judgments recovered after the 15th of July, 1850. The only mode since of enforcing such judgments against lands of other than chattel tenure, is hy first converting the judgment into a statutable mortgage by means of registration in the Registry of Deeds, and then enforcing the security so obtained by any of the modes open to ordinary mortgagees. Judgments registered as statutable mortgages require no registration or re-registration in the Registry of Judgments.

Object of

The main object of the Judgment Mortgage Act was to facilitate the transfer of land by limiting judgment creditors to certain defined lands, to be specified in the instrument creating their security, and also to substitute a judicial sale for the remedy by receiver, the general use of which was recognized as an evil, and was restricted by several statutes.

Operation of, not beneficial.

The practical operation of the Judgment Mortgage Act, however, has not been, in our opinion, upon the whole beneficial. Considered as a permanent charge, the security acquired hy the statutable mortgagee is unsatisfactory; and regarded as a mode of enforcing execution against lands, the process of converting the judgment into a mortgage, and then enforcing it as such, is circuitous and inconvenient, especially in the case of judgments for small amounts.

Secondary use of Judgments has diminished.

It appears, from the evidence before us, that the secondary use of judgments as securities—once so common in Ireland—is becoming much less usual. (*a*) The judgment mortgage holds the position, not of a registered mortgage by deed, but of a charge upon the beneficial interest of the debtor at the date of its registration, subject to all the equities affecting the lands in the hands of the debtor, whether created by registered or unregistered instruments. It has therefore no advantage in point of priority over an old judgment, while it has not the effect of attaching lands not specified, which formerly led to the frequent use of judgments by way of collateral security.

(*a*) Ap., p. 147.

The uncertainty that prevailed for many years as to the requisites for a valid registration of a judgment as a mortgage tended to discredit the security. It was often difficult to advise whether or not any charge had been created; and assuming the charge to exist, its relative position as to other incumbrances when it came to he realized was also uncertain.

Judgment Mortgages now little used as securities.

As a natural consequence, we find that the judgment mortgage is now but little used as a permanent security, and seldom voluntarily resorted to for purposes of investment. It has, indeed, heen suggested to us that the power of creating a permanent security of this nature is valuable in cases where the creditor is willing to forbear the immediate realization of his demand, on the terms of ohtaining a security enforceable at some future time. In such cases, however, there is no reason why the creditor should not accept a short deed, executed by his debtor, charging his lands with payment of the debt. Such an instrument, when registered, would afford a far more effectual security to the creditor than the judgment mortgage, which, hy reason of the existence of prior unregistered instruments or equities affecting the debtor, may prove a trap rather than a security. The expense of such a deed would not exceed the cost of entering a judgment and registering it as a mortgage.

Recommendation that Registration of Judgments, as Mortgages should cease, and facilities for sale be given to creditor.

We do not propose to interfere with the position of judgments already registered as mortgages under the Statute of 1850, but we are of opinion that the system of registering judgments as mortgages should be discontinued, and that no judgment obtained after a given date should he a permanent charge upon land, and that the judgment creditor should have the facilities hereafter mentioned for taking in execution and selling the lands of his debtor for payment of his debt.

Remedies proposed for those under Judgment Mortgage Act.

The remedies which we propose to substitute for those given to judgment creditors by the Judgment Mortgage Act are similar to those enjoyed by judgment creditors in England. Starting with a similar state of the law, the course of legislation in both countries has tended in opposite directions; in Ireland to the conversion of judgments into statutahle mortgages; in England, to the reduction of a judgment to its original position of a step towards the enforcement of a demand. By the 27th and 28th Vic. 112 (extending the policy of 23 & 24 Vic. c. 38), it was enacted that in England no judgment entered up after the passing of the Act should affect land of any tenure until such land should have been actually delivered in execution by virtue of a Writ of elegit or other lawful authority. A Register of Writs of execution was established for the

information of purchasers, and the judgment creditor to whom land was delivered in execution was enabled to obtain a summary order for sale from the Court of Chancery for the purpose of realizing his demand.

(1) To adopt English legislation.

In our opinion the course of legislation has proceeded upon a sounder principle for England than for this country; and although it might not have been expedient to extend the same principles to Ireland at a time when judgments were in more general use as permanent securities for money, we see no reason why this should not be done now. We do not think it advisable to revive the writ of elegit, which has been virtually obsolete since 1850, but we are of opinion that the judgment creditor should be at liberty to take proceedings for the purpose of sale in the Chancery Division in a summary manner, or in cases where the debt does not exceed the sum of £100, and the valuation of the lands does not exceed £50, in the County Court, with power to the Chancery Division in all cases to remit the proceedings to the County Court. We are also of opinion that a judgment should attach as a lien upon the lands of the debtor only upon the taking of such a proceeding as above, and registering the same as a *lis pendens* against the particular lands sought to be affected.

(2) To allow creditor to proceed summarily and register proceeding as a *lis pendens*.

(3) And to resort to equitable jurisdiction of County Courts for small sums.

The enforcement against the debtor's lands of small judgments, whether of the Superior or Inferior Courts, is at present encompassed with many difficulties. Decrees of the County Courts can only be enforced as against freeholders by the circuitous process of removing them to the Superior Courts by *certiorari* (if over £20), registering them as statutable mortages, and enforcing them as such. The equitable jurisdiction now possessed by the County Courts might, we think, be usefully had recourse to in order to provide a summary remedy for judgment creditors in suitable cases.

(4) Difference in enforcing against freehold and chattels real to be abolished.

There should, in our opinion, be no distinction in the mode of enforcing judgments against estates of freehold and chattel tenure. The differences which at present exist between lands of freehold and chattel tenure, in relation to judgment debts, are founded upon no sound principle in the present state of the law, and are productive of serious inconvenience. For instance, purchasers of chattel interests in land are exposed to risk from the absence of any Registry of writs of execution, such as that which exists in England, rendering personal inquiry from the sheriff necessary in order to insure absolute security. Moreover, the remedy by writ of *fi. fa.* is unsatisfactory to the creditor whose just claims may be defeated by outstanding legal estates, or by a judgment mortgage, sometimes the result of collusion. It is at the same time disastrous to the debtor. The sheriff can neither give possession nor afford any warranty as to title, and the result is that valuable interests are often sacrificed to the common injury of creditor and debtor; we, therefore, think that chattels real should no longer be sold under writs of *fi. fa.*, and that the remedies of judgment creditors against them should be the same as against freehold estates.

Effect of these recommendations.

By the adoption of these recommendations the creditor would be afforded a speedy mode of securing himself against alienation of his debtor's lands by registering his proceeding for sale as a *lis pendens*. The sale would take place under the order of a Court having the means of investigating title, and authority to put the purchaser into possession. In the event of the legislature carrying out our suggestions the details of the practice might be prescribed by general rules. It should, however, in our opinion, be founded upon the following general principles:—The sale should not necessarily take place according to the procedure in use in matters before the Land Judges for the purpose of conferring an indefeasible title on the purchaser, though in suitable cases it should be open to the judgment creditor to resort to those Judges for a sale, and in cases where, from the value of the property, the character of the tenure, or the nature of the title, a sale under conditions without Parliamentary title would be more advantageous, this mode of sale should be directed. There is a third class of cases in which the Judge might think it advisable, instead of selling the lands after investigation of title, simply to put up for sale the interest of the debtor for whatever it might be worth, as takes place at a Sheriff's sale. Under the system proposed by us the purchaser would be assured of obtaining immediate possession, and all persons interested in the lands would have the safeguard of a judicial discretion sanctioning the particular mode of sale. In the class of cases which would come before the County Courts, the alternative would lie between the second and third modes of sale referred to above.

Principles on which they should be carried out.

And benefits of carrying them out.

Judgments before July 1850 not interfered with.

It is obviously impossible to deal in the same manner with judgments recovered before 15th July, 1850. They are now held and treated as permanent securities, and great inconvenience would result if the creditors were compelled to put them in force. These judgments should in our opinion be retained in their present position, but the question arises whether it is expedient to keep up a distinct office for their registration.

As to Judgments since.

Judgments entered up since the 15th of July, 1850, are usually registered in the Registry of Judgments Office in order to preserve their effect in Bankruptcy. In this

particular, as the Chancery and Common Law Commissioners point out (2nd Rep. xxi.) "The object of the framers of the Legislation of 1850 has not been realized, for by a "provision of the Irish Bankruptcy Act of 1849—re-enacted in 1857—it is provided that "all judgments not registered within 21 days in the office for the Registry of Judgments "shall be void against the assignees of Bankrupts and Insolvents, and hence it is the "duty of solicitors to register in the judgment office all judgments not paid within 21 "days." From the preamble to the Act establishing the office, it appears that it was intended, following the example of the Redocketing Acts, to afford protection against unregistered judgments in the administration of assets. But the enacting part of the Act was defective, and the section of 23 and 24 Vic., c. 38, which cured a similar defect in the corresponding English Act did not apply to Ireland.

Only use now of Registry of Judgments Office.

The only object, therefore, for which judgments now entered up are registered in the Registry of Judgments Office is to preserve their effect in Bankruptcy. We do not consider it necessary to keep up a distinct office for this purpose, and we recommend that in place of the present Registry of Judgments a consolidated Index of all Judgments should be prepared and kept in one of the Offices of the High Court of Justice for the purpose in which Judgments shall be indexed in the names of the Defendants, or persons against whom the Judgment is obtained, and that such entry shall be equivalent in case of Bankruptcy to Registration now in the Office of Registrar of Judgments. This Index would supply the place of the Indexes now kept in the Common Law Divisions in the names of the Plaintiffs. The existing books of the Registry of Judgments should be preserved in the office in which this Consolidated Index should be kept.

As to Judgments before 15th July, 1850.

As to Judgments entered before the 15th July, 1850, which operate in themselves as charges on lands, we think it convenient that they should be registered in the same office with other charges affecting land, but in a separate Register. Re-registration appears to us to be attended with inconvenience and risk, but we think that provision should be made for the removal from the Register of satisfied judgments. We,

Recommendations.

therefore, recommend that all Judgments entered previous to the 15th of July, 1850, shall be registered once for all, and that no further registration of such judgments shall be necessary; that such registration shall be in the Registry of Deeds Office, and shall be made in a separate book against the names of the parties against whom such judgments have been obtained; that such registration shall be made within a period of five years from the passing of an Act to give effect to this recommendation; and that the Court, on application by any party interested shall have power to vacate any judgment, and to have it removed from the Registry.

Lis pendens should be registered in Registry of Deeds Office.

The transfer of land would, in our opinion, be facilitated if the effect of a *lis pendens* as against purchasers were limited to specific lands, to be named by the person requiring registration. It would be convenient that this registration should be effected in the Registry of Deeds Office, in order that *lis pendens* should be returned upon a search for acts affecting the lands in question. For the same reason we think that Crown Bonds, Recognizances, and Acceptances of office should be registered in the same office. We, therefore, recommend that, with the exception hereinafter mentioned, a *lis pendens* to affect land as against purchasers be registered in the Registry of Deeds Office, and as

And only against specified lands.

against specified lands, and that such registration shall be operative for five years only, but that the same may, if necessary, be re-registered. As there may be difficulty, in proceedings instituted for the enforcement of rights against the lands of a person generally or for the administration of the real or chattel real lands of a deceased person, to specify at once the names of his lands, we think that an exception in such cases should be made, and that any such proceeding may be registered as a *lis pendens* against the lands of such person generally without requiring the lands to be specified by name, but that such registration should be operative for one year only, and should be entered on the Names Index only. Judgment pronounced in an action registered as a *lis pendens* as above provided should, if registered while that registry continues, relate back to the original registration of the *lis pendens*. We also recommend that Crown Bonds, Recognizances,

As well as Crown Bonds, Recognizances, &c.

and Acceptances of office shall not affect lands as against purchasers, unless registered in the Registry of Deeds Office against lands to be specified in the document for registration, and that such document shall state the same particulars (as nearly as may be) as an abstract of a deed.

Judgment statutes to be consolidated.

Having regard to the number and the complication of the statutes relating to the law of judgments in Ireland, and to the great difficulty of obtaining a comprehensive view of the subject, it is, in our opinion, desirable that the several statutes relating to judgments should be consolidated.

Office Indexes and Books.

We have carefully considered the important subject of the best mode of constructing the Indexes necessary to be kept in the office. We are of opinion that the present system has, on the whole, worked satisfactorily, and that there has been a remarkable freedom from errors in searches, which is the best proof of its merits. The Index of Names is prepared so expeditiously that every instrument registered is entered on it within, at the farthest, forty-eight hours after its being brought into the Office. Present system of, satisfactory in general.

In the Day-book, from which that Index is prepared, each instrument is entered as soon as received, in chronological order, and without classification. From this two concurrent Indexes of Names are prepared, made out in different modes; one is called the Sectional Index, in which the names of all the Grantors appearing in the Day-book are entered in alphabetical order, according to the first two letters of the surnames; the other is called the Prospective Consolidated Surname Index, in which all the acts entered in the Day-book against each surname are collected together in complete Dictionary order of Surnames. The latter is reserved for official searching, while the former is used by the general public. We consider that the plan of this Index is as good as can be desired, and that it affords considerably greater facility for searching than the Sectional Index. We think it would be desirable to abolish the latter, and in substitution for it to have the Prospective Index prepared in duplicate, and one set of books appropriated to the non-official searchers, the other being reserved, as at present, for the official searchers. The objection made to this is that it takes a somewhat longer time to prepare the Prospective than the Sectional Index, the latter being, as we are informed by the Registrar, ready for use about four hours sooner than the former. We do not consider that this objection counterbalances the convenience afforded by the superiority of the form of Prospective Index, and, we think, that the delay can be prevented by improvements which we shall suggest. This Index should be consolidated at the end of each quinquennial period in double Dictionary order, that is both of Surnames and Christian names. We recommend that these Consolidated Indexes be printed, by means of which much less space will be occupied by each set of books, and a greater number of copies afforded for use, and others kept in store to replace any that should become worn out or otherwise injured. We do not think it would be practicable to print the current series of indexes, as it would require to be done from day to day, a process which as applied to bound volumes, which we consider to be essential for the security of the Indexes, would be difficult, troublesome, and unsafe; and we are satisfied from personal inspection, and the testimony of the officials, that no inconvenience is caused by having those Indexes prepared in manuscript as at present. Day Book, Sectional Indexes. Prospective Index approved of, but Should be consolidated every five years and be printed.

We have considered a plan, proposed some years ago by Colonel Leach, of preparing the Index of Names in books in which should be printed under each Surname the entire particulars of the abstract, the Surnames being arranged in Dictionary order, by which a searcher would find under each Surname all the acts from day to day registered against each individual, and also the general nature of those acts, without referring to the Abstract Books for full information, as it is necessary to do under the present system. We cannot recommend the adoption of this plan with reference to the Names Index. Colonel Leach's Names Index disapproved of.

We consider that the entering thus of all the particulars contained in the Abstract would greatly delay the construction of the Index, which it is essential to have completed as soon as possible; that it would in fact convert the Index into a full Register, and thus seriously impede and delay searchers in finding the particular acts sought for; and that it would render searching less secure than in the present form of Names Index from the number of parties whose names would be found in connexion with that of the person against whom the search was made, and the impossibility of arranging the names of the grantors, when more than one, in alphabetical order, without a delay that would be most prejudicial, and a great additional risk of error. We find that the present system of first examining the Names Index and then referring to the Abstract Books to ascertain the particulars of acts noted in the Index is neither tedious nor inconvenient, and we consider it more secure than that which has been proposed in its place. The Names Index is the more important one, and that which is chiefly used for general searching, and is also solely used by the unofficial searchers employed by the Banks and other parties requiring the most recent information of registered dealings with land. And reasons for

The Lands Index is open to quite different considerations. The present one is chiefly used as a check upon searches made by means of the Names Index. It is constructed from the Abstract Book, which has first to be prepared from the Memorials, it cannot be kept up to within less than a fortnight from the date of the Registrations, Present Lands Index.

Consolidation of it as prescribed by 2 & 3 W. 4, found impossible.

and is frequently a much longer time in arrear. It has been found impossible on the present system to consolidate the Lands Indexes as provided by the 2 and 3 Wm. IV., c. 87, and the attempt to do so has, with the sanction of the Lords of the Treasury, been abandoned; we think it should not be again attempted. The Lands Indexes are made for quinquennial periods, and under the head of each barony the acts registered are arranged in alphabetical order but according to the first letter only. The several acts affecting any particular denomination of land are not brought together, but are entered in chronological order with acts affecting all other denominations in that barony commencing with the same letter. The proposal of Colonel Leach was to have a heading for each townland by the name it bears in the Ordnance Survey, and to enter under that heading in chronological order, every act affecting that townland, or any part of it, with as full particulars as are now given in the Abstract Book. There would thus be a synopsis of all the dealings with that denomination for the entire of the period comprised in each book. We consider that this would be a most valuable improvement, and would afford very great facility for searching. The objection to it arises from the large number of headings that would be required, there being about 63,000 townlands in Ireland. It is said, too, that there would be great difficulty in estimating the spaces that would be required in the books for the several townlands, as to which the registered transactions necessarily vary considerably in number. We think however that these objections can be got over without much difficulty, as afterwards shown. It would not be necessary to open these headings in the books all at once, but only as acts to affect the townlands come in to be registered.

Inconveniences of.

Colonel Leach's proposal.

Objection to.

Mr Ray's plan.

A plan for indexing by the Ordnance Survey Townlands similar in some respects to that of Colonel Leach was proposed to the Lords of the Treasury in the year 1861, by Mr. Ray, the present Senior Assistant Registrar, a gentleman of great experience in the working of the office, but was not carried into execution. We have had before us a book prepared by him, for a single barony for a period of ten years, as a sample of his system, and a copy of the Lands Index books of the same barony for the same period of ten years, divided as the Lands Indexes are into two quinquennial periods, for the purpose of comparing the two systems. Each book contains every Act registered for the ten years as to lands in the Barony. Our examination and comparison of these books satisfy us that there would be no practical difficulty in constructing a Lands Index either on the system recommended by Colonel Leach or that proposed by Mr. Ray with some modification.

Lands Index recommended.

The plan we propose is as follows:—That a set of books should be provided for the Lands Index ruled in columns with headings; 1. for date of registration and reference to the abstract and recorded copy of the instrument; 2. the date of the instrument; 3. the names of all the grantors; 4. the name or names of one or more grantees; and 5. the general nature of the instrument. These could all be contained in the breadth of the page. These books should be divided as at present into counties and baronies. When an instrument is brought in to be registered for the first time in these books as against a particular Townland or part of a Townland, a page in the book of the barony in which the premises are situated should be opened with a heading of the name of the townland, and each of the columns should be filled with the particulars specified in the heading of it; every subsequent act affecting the same townland should be in like manner entered under the same heading, and so on until the space under such heading becomes filled. If this should happen before the expiration of the period (if any) for which the book was constructed, the entries should be continued under the same heading in another page in the same or a fresh volume, the transfer being noted at the foot of the former and at the head of the latter page, just as accounts are carried over in a merchant's ledger. It would not be necessary to open these headings even in alphabetical order, if any practical difficulty should arise in so doing, which we do not anticipate, as a required heading could be at once found by a simple index in the commencement of each volume merely containing the names and pages.

Could be carried on indefinitely.

In a Lands Index prepared in this manner it would not be necessary to have a limit of five years or ten years or any other period, as additional volumes for the baronies could be provided as required, and thus a continuous Register preserved as to each particular Townland. In the form proposed by Colonel Leach it was contemplated that there should be an entry under the heading of each townland of the names of all other lands comprised in the same instrument, but we do not recommend this, as it would be of very little use, and would needlessly incumber the Register and cause considerable delay in its preparation. The same particulars will have to be entered under a separate heading for each townland comprised in the same instrument, which is an additional reason for confining such particulars as far as possible. In the foregoing statement we have only spoken of counties and townlands, but we intend our recommendations to apply also to premises in cities and towns which should be dealt with in a similar way.

But Colonel Leach's form objected to.

Cities and towns.

We are of opinion that this plan of Index would possess the advantages proposed to be attained by and in some respects resembles the Search sheets lately introduced into the office for the registry of sasines in Scotland. (Ap. p. 148).

Abstract Book to be continued with alterations

It will be necessary for the purposes of both Names and Lands Indexes to continue the Abstract Book in the same form as at present, except that we consider that the columns headed "Name of the Instrument" and "Consideration" are useless, and should be omitted, and that there should be a column for the Names of Townlands according to those used in the Ordnance Survey, which names alone should be Indexed. As we propose that the duty of preparing Abstracts for registration should be transferred from the Registry Office to the parties requiring registration, the Abstract Book would be merely a transcript of the Abstracts received. This would effect a great saving of time in the office, and enable the Lands Index, on whatever system prepared, to be kept much more closely up to the time of registration. It would materially facilitate the construction of both Indexes, if the Abstracts as brought in were immediately copied by photography in the office, and as many copies as would be required for use produced by the Aniline process recommended by Colonel Leach, or some other suitable mode of printing. Several sets of clerks could then be set to work at once to construct simultaneously the Abstract Book and Indexes. The original Abstracts brought in should be carefully preserved as vouchers for the correctness of the work done from them in the office.

Abstracts brought in should be copied by Aniline or other process

And copies of the Day-book each day printed

In the Office.

It would also be a great convenience to the public, if several copies were printed off in sheets each day of the day's work entered in the Day Book. It is from that book alone that information can be obtained either by official or non-official searchers of the registration of instruments pending the writing up of the Names Index. Copies of the Day-book for temporary use could be easily printed after the close of office business, and any required number ready for the public at the opening of the office on the following morning. We are not aware whether these could be thus expeditiously and regularly prepared by the processes we have mentioned above, but if not they could be easily obtained by ordinary letterpress printing. We strongly recommend that any such processes should be carried out within the Registry Office, and by persons on the regular staff of the department.

No Names Index made from 1800 to 1832.

There is an interval of thirty-two years, from the year 1800 to the year 1832, for which no Index of Names has been constructed The want of the Index for that period is productive of considerable inconvenience. We therefore recommend that it be prepared as soon as conveniently may be done.

Mr. Dillon's System of Registry and Mechanical Index.

Description of.

Another plan for the construction of Indexes has been proposed to us by Mr. T. A. Dillon, one of the gentlemen employed in the office, which he calls a Mechanical Index. It is intended to consist of a long band of very thin brass, faced with some white preparation, on which should be printed from day to day, in dictionary order, the abstracts of the deeds registered each day. He proposes to have an Index of Names and an Index of Lands, both constructed on the same principle. These rolls, which are intended to contain all the entries for a period of five years, he proposes to have wound round two rollers, one of which rolls on itself what it unrolls from the other, and to have the rollers turned by a set of multiplying wheels, which, he states, would enable a speed of three miles per minute to be obtained. These rolls are intended to be contained in locked cases, with desk-shaped tops, in each of which a pane of glass should be set, affording a view of the part of the roll brought immediately under it, and thus allowing it to be read off, while it was protected from injury from without. The machine exhibited to us was furnished with an indicator, which showed the part of the roll coming within view, and thus enabled the operator, while turning the rollers at a speed that would render it impossible to discern anything on the surface, to see upon the indicator what part of the roll was uppermost, and thus stop the revolution at or near the part containing the name to be searched against. Mr. Dillon proposed to copy all the memorials which should have come in during the day by means of photography, and then to set up in ordinary type the abstract of each; to stereotype these in material sufficiently hard to print an impression of them on the brass roll, and to print such impression in its proper place, or in each of its proper places thereon, and to have all ready for work at the opening of the office on the next morning.

His proposition.

Specimen machine with Index of one name.

The machine exhibited to us contained only a very small portion of an index, one name only—that of Hamilton—being recorded on it, against which name the acts for a quinquennial period, numbering about 270, were printed. It was, of course, intended only as a specimen of what the index was capable of doing.

Owing to Report on it to Treasury in 1874.

In consequence of the ingenuity of this machine, and also the favourable mention made of it in a report respecting it made to the Lords Commissioners of your Majesty's Treasury in the year 1874, by a number of gentlemen appointed by them to make some inquiries respecting the Registry of Deeds Office, amongst whom were two members of our own body, we considered it to be our duty to give a very careful consideration to the proposal, and to make a full inspection of the working of the machine, and also to submit fully the reasons which have led us to the conclusion that this process should not be adopted.

Carefully inspected by the Commissioners and reasons for not adopting it. (1.) As to photography.

The first portion of Mr. Dillon's process, namely, Photographing the memorial, first in miniature, and from that in an enlarged size, is merely introductory, and only serves to get readily a working copy to place in the hands of the printer. It is a process familiar to Photographers, and has for many years been used for the purpose of copying both manuscript and print. It may be found useful, independently of the preparation of the Mechanical Index, for copying Memorials, Abstracts, or Deeds. It was proposed for this purpose by Colonel Leach many years ago, and has for the last twenty years been used for copying their maps by the Ordnance Survey Department, and has also been used by other public departments.

(2.) As to printing and stereotyping on brass His proposal.

The second and third steps of the process are the letterpress printing of the copy so produced, and the production of a stereotype sufficiently hard to print into the brass roll.

Mr. Dillon proposes next to print from day to day each Abstract from the Stereotype Blocks, so prepared, upon the brass roll of his Index of Names in dictionary order of surnames. He states that this can be accomplished between the hours of closing the office at 4 P.M. and re opening it at 10 A.M. on the following day. There has been no opportunity of testing this proposal. It involves the necessity of working during the night, for which a separate set of confidential clerks and printers would be required.

Objections to.

This printing is a process requiring very great care and accuracy, as a mistake in placing a single impression would, if undiscovered, be a fatal error. There must be a separate impress for every name against which the instrument is to be registered, and as three names for each are certainly not above the average, and there are on an average 60 instruments registered each day, there should be on an average 180 impressions in so many different places of the roll, and this number must again be multiplied by the number of machines in use. The block of Stereotype must be altered for every name against which the instrument is registered, so as to place that name first for printing in its individual place on the roll. This must greatly complicate and delay the process, for either there must be a new block prepared for each name; or, after one name has been printed in its place, the block used for that purpose must be altered by transposing the name which was first to a later position, and placing first the name against which the next impression is to be made, if, indeed, in Stereotype such transposition be possible. Every portion of this new work would require to be checked and counter-checked to insure accuracy, and even with the utmost care it would, in so complicated a process, be difficult to guard against errors. The same result is obtained in a simpler and safer manner by the present system of the office.

Difficulty in correcting mistakes.

Again, suppose a mistake to be made in the impression on the Roll, it is difficult to see how it can be corrected. The impression being into the brass is indelible, and a correction can only be made in manuscript over the printing on the roll, and this would plainly cause confusion and danger in searching, especially as the type must, in order to economise space, be small and close.

(3.) As to Index, giving against each name the Statutory requirements

Another advantage Mr. Dillon proposes to attain is that his Index would present against each name all the Statutory requirements, including the names of the lands affected. This would unquestionably be a convenience, for it would obviate the necessity of a reference in each case to the abstract, and would disclose at one inspection whether an act appearing against the name was within the search required. But there seem to be disadvantages which go far to counterbalance this. It would cause the Roll to cease to be an Index and transform it into a record of the requisites of registration and thus add very much to the length of the entry and to the time occupied in printing it. It was not intended by Mr. Dillon that this should be a substitute for the Lands Index, in which he proposes to record the same particulars. At present when the required name is found in the Names Index the volume and page of the Abstract Book containing the particulars of the act referred to are there shewn. The Searcher takes down the Volume and looks at the page indicated, and though this of course takes some more time than reading off the entry on Mr. Dillon's plan, the delay is not considerable.

Objections.

(4.) As to his Index being indelible, &c.

The next advantage claimed is that the Index is printed on indelible and indestructible material. No practical inconvenience has been experienced from the use of the present materials of paper and parchment. No doubt in time the paper Books become

more or less worn from continued handling by the Searchers, but this appears to be capable of easy remedy by having a new copy of any book made. There are always the Abstract and Transcript Books and the original Memorials to refer to if required for the purpose. There would be no difficulty in providing that even a particular page which had so become worn should be copied and pasted down or otherwise substituted for the original, the number of it being duly recorded, and the substitution authenticated by the Registrar or one of the Assistant Registrars. If it were decided to print the consolidated indexes, a sufficient number of copies could be kept in store to meet such necessities as already suggested.

Wear in books may be obviated by new copies.

But this brass Roll must, in order to be legible, be covered with some white material, either linen, paper, or enamel, each of which has been in turn suggested by Mr. Dillon. Paper is that used in the specimen exhibited to us. This substance would not possess the durability of brass, and would be probably found as liable to be obliterated as the parchment used in the Registry Office, particularly when the enormous Roll of which it forms the surface must be in constant revolution at a very high rate of speed, estimated by Mr. Dillon himself to reach from one to three miles a minute. Obliteration, or even discolouration of the surface, would render the Roll illegible, and, therefore, useless for searching.

(5) The material covering of the roll.

Subject to obliteration and discolouring.

It has been suggested by Mr. Dillon that it is possible by a chemical process to obliterate for a fraudulent purpose, entries in ordinary books, a danger which would not exist in the case of printing upon brass, but this seems to be a merely imaginary danger, for it would be at once observed upon the page so tampered with; it would be scarcely possible to carry a similar fraud through all the different places where the record of Registration is kept; and no instance of any such tampering has ever been known to have taken place.

His suggested obliteration of books by chemistry only imaginary.

Brass is, beyond doubt, less destructible by fire or by moisture than paper or parchment, and in that respect has an advantage, although it is destructible in any serious fire; but every precaution has been taken in the construction of the Registry Buildings against both sources of injury; none has ever occurred therein; and, if it should occur, the chances are so great against all the documents kept in different Repositories being simultaneously destroyed as to deprive this advantage of much of its importance.

(6) As to indestructibility by fire

Another advantage attributed by Mr. Dillon to his system, and on which he lays much stress, is that if the space allowed by estimation upon his Roll for entries against any particular name should happen to become filled before the expiration of the current period of the Index, the Roll could be cut, and a new piece of brass inserted, so as to avoid the delays which occur in the present system by reason of carrying over the entries against such name to another page in the Index Book. According to the present system, when a set of Index Books is opened for a new period the Officer estimates the amount of space to be allotted to each surname. In this he is guided by the experience of the past, and generally allows more space than is afterwards found necessary. But it sometimes happens that he has allowed too little, an event which would probably occur chiefly when the name becomes that of some Public Officer, such as the Official Trustee in Bankruptcy, or the Trustee of a Building Society, or when the property of an individual becomes suddenly built upon largely, from the opening of a Railway Station in its neighbourhood, or from like causes. When the page or pages allotted to a name become filled, an entry is made at the foot stating that the name is transferred to such another page, and on turning to that page the continued registry is found. In exceptional cases there have been two, three, or even more such Transfers. To provide for them a number of blank pages are left at the end of each Volume, and if these too prove insufficient, the further Transfers are made to some other blank spaces in the Volume. This is no more than commonly occurs in merchants' or other accounts. The delay is very inconsiderable, as we have ourselves ascertained by actual trial, and there is no risk of error with the most ordinary care. The returns of such Transfers, or Blocks (as they have been termed), sent in by the Registrar, (*a*) show that with so many as about 13,000 Surnames, the Transfers in the Prospective Index amounted to about 1,100 in the nine years which have expired of the current period, though from the number of new companies formed, from the extent of buildings in crowded localities, and also from the very large number of dealings with land under the Irish Church Act, 1869, it has been a very exceptional one. A recurrence of this defect can be easily obviated by allowing larger spaces in the next set of books. These Transfers of course do not occur in any of the Indexes consolidated for completed periods. The term Block is calculated to convey a wrong impression, there being in fact no stoppage of the recording of dealings in the office but merely a transfer of the name to another page. But so far from this feature of Mr. Dillon's Index being an advantage, it seems to be on the contrary a disadvantage. The strongest objection has always been entertained to permit interpolations of any kind in books of

(7) As to inserting new pieces of brass when necessary.

Present system of the Office.

Provision for transfer.

Number of transfers.

(*a*) App., p. 142.

Interpolations objectionable.

account or of registration. It is a great protection against frauds both of addition and subtraction that the record should be in such a shape as to disclose at a view any taking out or adding of leaves or other component parts. It would be easier and safer to interleave pages into the present books in order to provide the required additional space, than to cut across a Roll of brass, and join in at both ends another piece of brass in such a secure and perfect manner as to stand a heavy strain, and run perfectly fair and smooth. The danger of fraud would be at least as hard to guard against in this as in a well-bound book.

Even interleaving would be better.

(8) As to working of the Roll

But supposing the Roll constructed, then comes the essential inquiry how it would work. On this question none of the experiments heretofore made affords anything approaching to a satisfactory test. We long since formed and expressed our opinion that nothing short of a Roll containing all the entries for a period of at least five years would enable us to arrive at a satisfactory conclusion. The number of deeds registered for such a period would be at least 90,000, each of which should be entered against three names on an average, thus involving the printing of 270,000 Abstracts. Allowing the space of half an inch to each entry, as Mr. Dillon now estimates it, this continuous brass roll should be at least 3,750 yards long. This should be doubled for a decennial period, being that for which the permanent sets of books are now required to be kept, making the length of such a roll 7,500 yards, or over four miles.

Allowing ½ inch per entry it should be over four miles long. And the space should be doubled.

In our opinion the space estimated by Mr. Dillon of half an inch on the average for each entry is wholly inadequate. We have framed the above calculation on this estimate as the most favourable for Mr. Dillon, while we think it should at least be doubled. On the Roll shown to us as his Index by Mr. Dillon, the spaces occupied are at least double those of the spaces on the specimen slips afterwards printed, on which he bases his present estimate of an average of half an inch, and we are of opinion that no smaller Type could be safely used than that in which his Index has been printed. Further, his estimate assumes that the entries should be printed in close consecutive order, and makes no allowance for the spaces that must be left in constructing a Prospective or Concurrent Index which afterwards remain unfilled.

Objections.

(1) Length

(2) Friction

(3) Inequalities

Suppose a search to include the names of Abbott and Young, the searcher should, on concluding his search against Abbott, turn a handle so as to go through the whole of this great length till he arrived at the name of Young. It has been said that this could be done in a very few minutes, but without the aid of steam or some other powerful force this does not seem possible. The very rotation of the roll at such a high speed must tend to wear it out, and this tendency would be greatly increased in case of a number of inequalities in the surface from joinings, or possibly from deep printing.

As to time. Experiments for test insufficient.

It has been stated that a search by this method would be more expeditious than by that used in the office, but this has not been yet tried in any reliable or satisfactory manner. One name, that of Hamilton, was selected, and the acts registered against it for five years, numbering about 270, were printed on the small brass Roll of Mr. Dillon's Index of names. Some trials made upon this are stated to have given the advantage to Mr. Dillon's process in speed, though not in correctness, four searches out of seven upon it having proved erroneous, as detailed in the report of the Treasury Committee of the 23rd September, 1874. But searches made on this, which was less than the 300th part of even a Quinquennial Index, cannot be accepted as even approaching to a reliable trial of that Index.

Books more suited to the public.

It is to be remembered that the materials for searching must be afforded not only to skilled officers of the department, but to the general public, and must, therefore, be fairly suited to persons not accustomed to handle such instruments. Anyone of ordinary education can search in a set of books, but the very manipulation of this Index, with even moderate speed, is not likely to be acquired without a good deal of practice. When the required place has been found, the reading off and noting the entry will probably be found to be not more easy, convenient, or reliable than performing the same acts in a well and clearly-written book, such as all those kept in the Registry Office certainly are. All those books are kept in regular order, and are marked plainly on the backs with their Dates and the Names they contain, so that there is no difficulty in finding those required. When the required Volume has been obtained, the required name is turned to as readily as a word in a Dictionary. There can be little doubt that Mr. Dillon's Index, which should contain in one unbroken sequence every act entered against every name upon the Registry for at least five years, would not afford as expeditious means for searching as the Names Index of the Office, conveniently divided as it is into a large number of Volumes.

Each machine comprising

One of the most serious objections to the adoption of Mr. Dillon's Mechanical Index arises from this fact, that each Machine is intended to comprise all the names on the Registry of the period. This would necessitate the providing a very large number of

machines, as each searcher must have entire possession of the whole Index, instead of having to use only one of a large number of Volumes. It appears that there are generally twenty-two or twenty-three Clerks of the Department occupied at the same time in searching, and it is not too high an estimate to put the number of searchers not connected with the Office at twenty, searching simultaneously. There are thus upwards of forty searchers generally searching at the same time. They have at present the current Decennial Names Index, containing thirty-nine volumes, and the current Quinquennial Names Index, containing thirty-four Volumes, in constant use, and the greater part of these seventy-three Volumes are very commonly in use together. Of course, the current volumes are those most in demand. It would be impossible to carry on the work of the office if there were to be frequent or long continued delays in getting access to the Indexes. The supply must be equal, or nearly equal, to the demand. It would be hard to estimate the number of machines that would be necessary for the purpose; but it may be safely asserted that not less than twenty, all containing identically the same matter, should be provided. The expense of procuring these, the space that would be occupied with them, and the delay in the printing on all of them the work of each day, seem to present very grave objections to the system.

all names for the period objectionable.

From number of persons searching together.

And the expense, &c., of number of machines required.

The foregoing observations deal only with the Index of Parties' Names, but they apply with still greater force to the Lands Index. The number of Names on the latter far exceeds those on the former. The number of Volumes of the Lands Index for the current Series is sixty-two, while that of the Volumes of the Names Index is thirty-nine. It has been estimated that the number of Denominations of land averages five for each instrument registered, while the number of names of Grantors has been estimated above at only three. The delay, difficulties, and risk of error in the former are, therefore, nearly double those in the latter. The number of Townlands, each of which forms a separate Denomination of land, is about 63,000; the number of Surnames has been estimated at about 12,500.

And the objection greater for Lands Index.

Mr. Dillon does not propose to place the several Denominations in Alphabetical order on his Lands Index, and provides as a substitute what he designates "Sub-Indexes." These he applies to both Names and Lands Indexes. In the former the Sub-Index is placed at the head of each different Surname, and consists of an Alphabet with a space following each letter, in which he contemplates that the number of each entry under that Surname in which the Christian name begins with that letter shall be inserted. The object of this is to direct the attention of the searcher to those entries in the space allotted to that surname, in which the required Christian name is to be found. This introduces another element of danger—first, in the entering of the proper number in its proper place; and secondly, in the searcher certainly and accurately reading off the number so placed. It is, in fact, an attempt at an Alphabetical current Index of Christian names, a matter already attempted in the Registry Office, and abandoned as useless and dangerous. It is not essential to Mr. Dillon's Names Index, and might be omitted from it.

His system of Sub-Indexes.

(1) Of Names

Dangers of.

In his Lands Index he proposes to place the Baronies only in Alphabetical order, and to print on the Roll under each Barony Heading every Abstract containing any Denomination of land in that barony, but not to arrange the denominations in an Alphabetical Series. The Lands Index kept in the Office contains in Alphabetical order every Denomination of land on the Registry, with all the *alias* names of any parcel, divided into Counties and Baronies, thus affording a safe and expeditious means of searching. In fact without it the business of the Office could not be carried on. To supply this essential requirement Mr. Dillon proposes to prefix to each Barony on the Roll a Sub-index constructed on the same principle as that in his Names Index, namely, an Alphabet with a space after each letter in which to insert the number of each following Abstract which contains a Townland or other Denomination beginning with that letter. This Sub-Index appears to be far more open to objection, on the grounds already stated, than the similar one in the Index of Names, because of the very much larger number of Denominations. Any person inspecting the present Lands Index hooks and the Roll of Mr. Dillon's Lands Index will at once see how far superior the former method is both as to expedition and accuracy to the latter. Even in the hands of an experienced searcher this Sub-index could not, it is apprehended, be safely used, and to others it would of course present still greater danger and difficulty.

(2) Of Lands

more objectionable on same grounds.

The last advantage proposed to be gained by the Mechanical Index is the possibility of taking copies from the reverse side of the brass roll. This seems to be of little, if any, practical use. Mr. Dillon admitted that it would be so inconvenient to take off such impressions from an instrument in use for searching, that a separate one should be kept for printing. If, then, a person searching on one instrument finds entries apparently

As to facility for taking copies.

Practical difficulties

referring to the person or parcel as to which he is searching, he should first take a note of them, then apply to the Officer in charge of the printing Instrument, who should open it, find each required entry upon it, apply his printing press to the different places, and take off an impression of each. It can hardly be seriously contended that such a tedious and complicated process would be availed of as a substitute for taking a manuscript note on the moment from the entry when found in the Index. No copies of entries on the Index, or of Abstracts in Abstract books are given to or required by the public, the copies of Memorials are those which are in demand.

Conclusion that Mr. Dillon's mechanical Index is inferior to Books

We have arrived at the foregoing opinions after a careful consideration of the subject and full inspection of Mr. Dillon's Mechanical Index. We have not thought it desirable to recommend the Lords Commissioners of the Treasury to incur the expense of having a complete Quinquennial Index prepared by Mr. Dillon, as we are of opinion that from the nature and construction of the Mechanical Index, as compared with a Book Index, it could not afford equal security or facilities for searching.

Local Registries.

No inconvenience from Central.

We have also considered a proposition put forward for the establishment of Local Registries through the country, and are of opinion that such a change is neither necessary nor desirable. No inconvenience has been experienced by having recourse to a central office, and we think it far more convenient to have the registry for land in all parts of Ireland in one office in Dublin. The business of Registration requires an experienced and highly trained staff under able and careful supervision. It would be impossible to provide these requirements for a number of small Local Registry offices.

Objection to Local.
(1) Necessity for trained staff.

(2) Inconveniences of.

(a) Ap., p. 148.

Inconvenience would arise in cases where estates situated in different Registry Districts were comprised in the same Deed. In Scotland the Local Registries which formerly existed have been abolished (a). The Real Property Commissioners in their second Report after a careful comparison of the advantages and disadvantages of both systems decided in favour of a Central Registry of Assurances in London. It is obvious that the arguments in favour of establishing Local Registries have much greater force in England than in this country.

Existing Vacancies in the Staff of the Office.

Disadvantages of not filling these up.

(a) Ap., p. 140, s. 18.

It has been represented to us by the Registrar,(a) to whose opinion as Head of the Office we consider great weight is due, that the business of the Registration of Deeds Office (though progressively increasing) has been carried on under more than ordinary disadvantages during the last four years, resulting from the suspension of promotions and the discontinuance of appointments. We do not anticipate that the changes proposed by us if carried out will warrant a reduction in the number of the staff of officers in the Registry of Deeds Office below that which was required for the discharge of the duties of the office under the system of Registration now in force. The not filling up of vacancies in the office will lead to the result that the number of trained clerks capable of discharging the higher duties connected with registration will be reduced and the efficiency of the office thereby impaired. We, therefore, see no reason why the regular course of promotions and appointments should be suspended pending the final result of our inquiries.

Summary of Recommendations.

Our opinions and recommendations may be thus summarized —

1. That the Record of Title shall be closed and the Recorded Estates be remitted to the Registry of Deeds.
2. That Instruments not appearing on the face of them to relate to lands, or to charges on lands, should not be received for registration.
3. That the Ordnance Survey Names of Townlands be adopted as standard names and shall be exclusively used for the purposes of registration.
4. That an Instrument shall be admitted to Registration only as to those lands which in the Abstract thereof brought into the Office, are specified by the names of the Townlands as used in the Ordnance Survey, together with the Barony and County, or the City or Town and Parish (as the case may be) in which such lands are situated; and that an Instrument shall be entered in the Names Index or Abstract Book, only as to the lands or premises so described in the Abstract.—p. xxvi.

5. That for the purpose of facilitating registration, the Ordnance Survey Department shall publish a list, in Dictionary order, of the names of the Townlands mentioned in the Ordnance Survey, with all the *alias* and sub-denominational names of them as learned in making the Survey, divided into Counties and Baronies, each part of which shall be sold separately at a moderate price; and that a copy of the part or parts relating to each particular district shall be kept for reference in the offices of the Poor Law Unions, and other public departments, in each County, City, and Town.—p. xxvii.
6. That when an Instrument brought to the Office for Registration does not state the Barony and County or the City or Town and Parish (as the case may be) in which the premises thereby affected are respectively situate, a certificate shall be endorsed on the Instrument, and a duplicate thereof shall be lodged in the Registry of Deeds Office, signed by the party on whose part application for registration is made, or his solicitor, supplying such defect; and in like manner when the Townland names as used in the Ordnance Survey are not stated in the Instrument, or denominations other than such Townland names are contained therein, the Ordnance Survey names shall be stated in a like certificate, and that when any such certificate shall be used an additional fee shall be charged for registration.—p. xxvii.
7. That instead of the form of Memorial now ordinarily used, an Abstract of the Instrument, confined to the statutory requirements for Registration, shall be adopted; that it shall be prepared in a prescribed form similar to that of the Abstracts now prepared in the Office, without the columns for the name of the Instrument and the consideration, but setting out in separate columns (*a.*) the names of the parcels as stated in the Instrument (*b.*) the names of the townlands on the Ordnance Survey Maps, and that it shall be certified to be correct by the party bringing in the Instrument for Registration, on whom the responsibility for its correctness shall lie; but that it shall be compared by the Officers with the original Instrument as to the names and descriptions of the parties and the names of the parcels, and rejected if found incorrect; and that there shall be also brought in a copy of the Instrument. certified in like manner, which shall with the original Instrument be left in the Office for comparison, and there compared with the original, and, if necessary corrected by the Officer, and that such copy shall be retained and preserved in the Office, and the original shall then be returned.—p. xxix.
8. That an Instrument shall be entered on the Names and Land Indexes as the act of those persons only whose execution shall have been proved by Affidavit of perfection.—p. xxxi.
9. That Affidavits of perfection shall be confined to the execution of the original Instrument, and that the present requirement that they should be made by one of the attesting witnesses to the Instrument, shall be continued as the general rule, but that when it is shown to the satisfaction of the Registrar that by reason of the death, incapacity, refusal, or absence from Ireland of the attesting witnesses, or for other sufficient cause, such an Affidavit cannot reasonably be procured, the Instrument may be admitted to registration, on proof of the signatures of one or more of the grantors by the Affidavit of some person acquainted with the handwriting, and who shows sufficiently by the Affidavit his means of knowledge. That swearing Affidavits before the Registrar or Assistant Registrars shall be discontinued, and that they shall be permitted to be sworn before any person authorized to administer oaths.—p. xxxi.
10. That a Will affecting real estate, if proved in the Court of Probate, shall be admitted to registration on production of the Probate thereof, or of Letters of Administration with such Will annexed, or of an Office copy of such Probate or Letters of Administration; and that an unproved Will shall be admitted to Registration only upon its being lodged in the proper Office of the Court of Probate for safe custody, and on production to the Registrar of Deeds of an Office copy of such Will certified by the proper officer of the Probate Court; and that for the purpose of the Registration of any Will, an Abstract thereof in a prescribed form, stating the date, and the name, of the Testator and his description (if any) as appearing in the Will and other required particulars, be lodged with the Registrar

of Deeds. The Certificate of Registration shall he given upon the Probate, Letters of Administration, or copy (as the case may he) so produced, which shall he returned to the person who hrought it in for Registration.—p. xxxii.

11. That registration of a Will shall not operate in any case hetween the true devisee and the heir-at-law or prior devisee, hut as hetween *bonâ fide* purchasers for value hy registered assurance from the heir (if in possession), or the devisee under the revoked will (if possession has gone according to the Will), and the true devisee, preference shall he given to such purchaser, but that this protection should not take effect until five years shall have elapsed from the death of the Testator, hut that such registered assurance shall not by its registration defeat the estate of a devisee under an unregistered last Will unless a judicial decision that (in the one case) the ancestor died intestate, or (in the other) that the prior Will was the last Will of the Testator has heen previously obtained and registered.—p. xxxi-ii.
12. That a devisee who has heen injured by such Assurance shall he enabled to recover compensation from the person who conveyed the estate.—p. xxxii.
13. That it is not expedient to require or permit the Registration of Affidavits of Intestacy or Heirship, or of Letters of Administration.—p. xxxii.
14. That Equitable Mortgages hy deposit of deeds shall, if not registered, be postponed to registered instruments, and that for the purpose of registering them there shall be a memorandum signed hy the depositor, stating the fact and date of such deposit, the names of the parties to the transaction, the names of the lands intended to he charged, and the amount or limit of the amount of the money intended to he secured, and that an abstract and copy of such memorandum shall he prepared and brought in by the party seeking registration, and he dealt with in the same manner as abstracts or memorials of other Instruments.—p. xxxii.
15. That Judgments, Decrees, and Orders of the Chancery Division of the High Court of Justice, which have a statutory operation to transfer lands: certificates of the appointment of Assignees and Trustees in Bankruptcy, and vesting orders in arrangements under the Court of Bankruptcy, shall continue to he registered as Instruments affecting lands, as at present, except that when they do not specify the names of the lands intended to he affected therehy as ahove advised, they shall be registered in the Names' Index only; and that as to lands so named therein, they shall he entered upon the Lands Index, under the same regulations as those we have above advised in reference to deeds and other instruments; and that private Acts of Parliament, dealing with estates in land, and conveyances hy and to the Commissioners of Woods and Forests shall he registered in like manner.—p. xxxii.
16. That the Schedules of Improvements under "The Landlord and Tenant (Ireland) Act, 1870," shall not he registered in the Registry of Deeds Office.—p. xxxiii.
17. That Instruments lost or destroyed shall be permitted to he registered upon the order (in case of a will) of the Judge of the Probate Division, and (in case of other Instruments) of one of the Judges of the Chancery Division, applied for summarily upon proof to the satisfaction of such Judge of the execution, contents, and loss of the Instrument, a copy of such order, with an abstract of the Instrument in the prescribed form, heing lodged with the Registrar and noted in the entry of the Instrument in the Register.—p. xxxiii.
18. That in cases where, from other causes, it may be impossible to effect registration of an instrument under the prescribed system of the Office, authority shall he given to the Judges of the High Court of Justice to order such Instrument to be registered on such terms as may appear just.—p. xxxiii.
19. That in the case of a refusal by the Registrar to act, there shall be a power of applying summarily by any party aggrieved to a Judge of the Chancery Division for a direction to the Registrar upon the subject.—p. xxxiii.
20. That the Certificate of Registration upon the Instrument signed hy the proper officer shall he conclusive evidence of the due Registration of the Instrument at the time therein stated.—p. xxxiii.

21. That the statutory priority acquired by registration shall not be defeated by the mere fact of notice of a prior unregistered Instrument, but that this shall not interfere with the power of a Court to relieve on the ground of actual fraud.—p. xxxiv.
22. That it is desirable that a system of caveats on the principle of that provided by the Registration of Deeds (Ireland) Act 1850, (13 and 14 Vic., ch. lxxii.) ss 41 and *seq.* should be adopted; but that it is not desirable to adopt the system of Inhibitions therein.—p. xxxiv.
23. That it is desirable that a system of Provisional Registration of executed Instruments on the principle of that provided by the draft of the Registry of Deeds (Ireland) Bill of 1876 (ss. 53-55) should be adopted.—p. xxxv.
24. That the system of registering Judgments as Mortgages shall be discontinued.—p. xxxvi.
25. That a judgment creditor shall be at liberty to proceed summarily for the purpose of sale in the Chancery Division: or in cases where the debt does not exceed £100, and the valuation of the lands does not exceed £50: in the County Court, with power to the Chancery Division in all cases to remit the proceedings to the County Court; that a Judgment shall attach as a lien upon the lands of the debtor only upon the taking of such a proceeding as above, and registering the same as a *lis pendens* against the particular lands sought to be affected.—p. xxxvii.
26. That sales of chattels real under *fi. fa.* shall be discontinued, and that the remedies of Judgment creditors against them shall be the same as against estates of freehold.—p. xxxvii.
27. That Judgments recovered before the 15th July, 1850, shall not be affected by these recommendations.—p. xxxvii.
28. That the present Registry of Judgments Office shall be abolished, and that instead of it a Consolidated Index of all Judgments shall be prepared and kept in one of the Offices of the High Court of Justice appointed for the purpose; in which the Judgments shall be Indexed in the names of the persons against whom the Judgments were obtained, that such entry shall be equivalent, in case of Bankruptcy, to the present registration in the Office of the Registrar of Judgments; and that the existing books of the Registry of Judgments should be preserved in the Office in which the consolidated Index is kept.—p. xxxviii.
29. That all Judgments entered previous to the 15th July, 1850, shall be registered within five years, and that no further registration of such Judgments shall be necessary; that such registration shall be in the Registry of Deeds Office, in a separate book against the names of the parties against whom such Judgments have been obtained; and that a Judge on application by any party interested shall have power to vacate any Judgment, and to have the registration of it removed from the Registry.—p. xxxviii.
30. That *lis pendens*, except as hereinafter mentioned, Crown Bonds, Recognizances, and Acceptances of Office to affect land as against purchasers, shall be registered in the Registry of Deeds Office only against lands specified in the document for registration, which shall state the same particulars (as nearly as may be) as an abstract of a Deed, and that such registration of a *lis pendens* shall be operative for five years only, but that the same may if necessary be re-registered; that permission should be given to register proceedings to enforce rights against the lands of a person generally or, in administration suits, against the lands of a deceased debtor generally, without specifying the lands by name; but that such registration shall be operative for one year only, and shall be entered on the Names Index only, and that a Judgment pronounced in an action registered as a *lis pendens* as above, shall, if re-registered while that registry continues, relate back to the original registration of the *lis pendens*.—p. xxxviii.
31. That the several statutes relating to Judgments shall be consolidated.—p. xxxviii.
32. That the Sectional Index of Names shall be discontinued, and the Prospective Index shall be prepared in duplicate for public use, and be consolidated at the end of each quinquennial period, in double Dictionary order, of both Surnames and Christian names, and printed.—p. xxxix.

33. That the Lands Index shall be kept upon the plan recommended above (p. xl.), which cannot conveniently be summarized.
34. That the columns respectively headed in the present Abstract Book "Name of Instrument" and "Consideration," shall be omitted, and that there shall be a column for the names of Townlands, as given in the Ordnance Survey, which names alone shall be indexed.—p. xli.
35. That printing by Photography, the Aniline, or some other process, shall be used in the Office for making copies of the Day-book, &c.; but that such processes shall be carried on in the office by a regular staff therein.—p. xli.
36. That the Index of Names, from 1800 to 1832 shall be constructed.—p. xli.
37. That Book Indexes are preferable to the system proposed by Mr. Dillon.—p. xlvi.
38. That Local Registries would be inconvenient and expensive, and should not be established, and that the Central Office shall be continued.—p. xlvi.

All which we humbly submit for your Majesty's gracious consideration.

Witness our hands and seals this twelfth day of August, 1879.

* GEORGE A. C. MAY, *C.J.* (L.S.)
* C. PALLES, *C.B.* (L.S.)
HEDGES EYRE CHATTERTON, *V.C.* (L.S.)
HENRY ORMSBY (L.S.)
MOUNTIFORT LONGFIELD, LL.D. (L.S.)
FREDERIC WILLIAM WALSH. (L.S.)
J. FAVIÈRE ELRINGTON. (L.S.)
* CHARLES H. MELDON. (L.S.)
WM. FINDLATER. (L.S.)
DODGSON HAMILTON MADDEN. (L.S.)
R. O ARMSTRONG. (L.S.)

RICHD JAS. LANE, Secretary

The Commissioners before whose signatures asterisks are placed, signed the Report subject to the opinions with respect to parts thereof which are expressed by them in their respective dissents hereunto annexed.—See also dissent of The O'Conor Don, M.P., *infra*, p. lxi.

The Right Honorable Judge Flanagan was not able to attend any of the meetings of the Commissioners, and has not, therefore, signed the Report.

RICHD. JAS. LANE, Secretary.

DISSENT OF THE RIGHT HON. THE LORD CHIEF JUSTICE.

I am unable to concur in that portion of the above Report which recommends the compulsory registration of Wills.

The primary object of the Acts prescribing the registration of Assurances relating to land has been to protect a purchaser from secret acts affecting the interests acquired. When such acts take place *inter vivos* the parties are aware of the risk incurred by the omission to register the Assurance, and cannot justly complain if they should suffer by such omission. Danger to a purchaser is principally to be apprehended from the existence of undisclosed incumbrances, the creation of which is not usually accompanied by transmutation of possession or other act of notoriety, and it is right and just that a purchaser should be protected from acts of which he cannot be supposed to have notice.

Wills appear to me to be open to other considerations. Upon the decease of every proprietor of land, there is a mutation of ownership and possession, an inquiry is made as to the succession, and in the great majority of cases the Will of the late owner, if he has made a Will, is produced and proved in the Probate Court. In the comparatively rare case of an owner dying intestate the heir takes possession of the estate. There is indeed always the possibility of the title of an heir being displaced by a Will, or that of a devisee by a Will later in date than that under which he claims, but I do not recollect having ever heard of any case in which such an event took place, and I do not think that the remote possibility of some purchaser from an heir or devisee being prejudiced by the discovery of some previously undisclosed Will affords sufficient ground for changing the law in this particular.

To render the registration of Wills compulsory is to impose a fresh obligation on persons deriving title under such instruments, and one which cannot be discharged without trouble and expense. When lands are limited, as is frequently the case, to persons taking under successive limitations, the first taker may neglect to register, and by his neglect those in remainder, minors it may be, or persons unborn, may be deprived of the estate.

Such a change in the law seems to me likely to afford a great temptation to fraud. All wills would be subject to any new enactments on the subject.

Few farmers depart this life without making some disposition by will of their small properties, and should such wills, if unregistered, be rendered void as against a purchaser from an heir or administrator, as the case may be, it seems to me a great inducement will be held out to the survivors to suppress the will, sell the property, and emigrate with the proceeds.

Frauds on purchasers are, of course, to be prevented by all proper means, but I think the rights of devisees and legatees are also to be considered, and if they be innocent of any concealment or default, I do not see sufficient reason for sacrificing their interests to those of purchasers.

It must not be forgotten that deeds take effect and operate according to the priority of date, but wills in the reverse order. Any rule or proceeding which has the effect of giving an earlier testamentary instrument priority over a later defeats the intention of the testator and the rights of those he intended to benefit.

I am aware that the theory of the registration of Assurances, for the purpose of the transfer of property, is rendered more complete if Wills be included in the class of Instruments requiring registration; but, upon the whole, I am disposed to think that the change recommended as to the registration of Wills, would probably lead to results mischievous rather than beneficial to the community at large, and I should rather recommend that the law, in this particular, should be allowed to remain in its present position, under which the registration of Wills is optional, not compulsory.

This has been the rule since the original Registration Acts, and I am unwilling to recommend a change in a usage of such ancient date, and from which no evil can be shown to have resulted.

GEORGE A. C. MAY, *C.J* (L.S.)

DISSENT OF THE RIGHT HON. THE LORD CHIEF BARON.

Whilst I am not prepared to dissent from the recommendation in the Report—that a copy of the Instrument sought to be registered should be lodged in the Registry Office—I can be a party to it only upon the most ample safeguards being provided against inspection of such copies by unauthorized persons. The restrictions suggested with that object by the Report, viz., the special leave of the Registrar and the payment of a fee, appear to me to be wholly insufficient. In my opinion the person registering an Instrument ought to be permitted to mark the copy lodged as "Not for Public Inspection"; and inspection of such copies should be limited to the parties to the Instrument; persons authorized in writing by them or any of them; and persons who have a title to inspect the original Instrument; and I think that the High Court of Justice would be the proper tribunal to determine any disputed claim to inspect.

C. PALLES, *C.B.* (L.S.)

DISSENT OF CHARLES H. MELDON, ESQ., Q.C., M.P.

For the reasons (amongst others) hereafter stated, I am unable to concur in the recommendations of the Report hereinbefore summarized, and numbered in such summary, 3-4-6-7-11-14-15-23-24-25-26-27-33 and 34.

CHARLES H. MELDON. (L.S.)

Reasons—

I regret that I cannot concur in the recommendations of the Report on the points above indicated. If a new system of registration was about to be introduced I might have felt at liberty to have given my adhesion to some of the recommendations referred to, not because I am satisfied that the same are desirable, but in order that the new system might be tried as an experiment. When, however, it is sought to materially alter the system now in operation in Ireland for more than a century and a half, which has deservedly commanded public confidence—one with which little, if any fault can be found, I have felt it my duty to dissent from the recommendations of the Report indicated above, considering it undesirable that any material change in the *system* now in operation should be made, unless the necessity for such alteration and the benefit of it has been clearly proved.

*Hans Deb, vol 170, p. 454.

In the debate upon the Registration of Assurances Bill in 1863,* the late Chief Justice of Ireland (Whiteside) "challenged" (the then Chief Secretary and Solicitor-General for Ireland) "to instance one single well authenticated case in which the Irish Registration "Office had failed in its duties in the transfer of many millions of property;" and the evidence which has been given shows distinctly that practical men do not desire any material or radical change, but on the contrary, are quite satisfied with the existing state of things.

(a) Ap p 18, ans 11

In the answers given by the Council of the Incorporated Society of Solicitors of Ireland (a body representing the entire profession in Ireland), to the queries of the Commissioners, they say(a) "The general principle of the present system of Registry of Deeds in Ireland is not capable of improvement, but we would suggest alterations in the following *matters of detail.*"

None of their suggestions in any wise deal with the points upon which I have been obliged to dissent from the Report, nor can the changes recommended in our Report be at all considered *matters of detail* only. Again, Mr. Maunsell, a gentleman of very large experience (having in addition to his other practice, acted as solicitor for the Representative Body of the Church in Ireland, in loans to the extent of four and a half millions), says (b) that "in the whole of his experience he never found a mistake under the existing system of registration." And the late Sir R. Orpen in a testimonial signed by him, on behalf of himself and several other members of the legal profession, and presented by him to Messrs. Law and Chisholm, upon the occasion of their inquiry into the Registry of Deeds Office, states (c) "Nor are we aware of any loss or injury having been ever occasioned to the public by neglect or omission on the part of any of the officials of the Registry of Deeds Office."

(b) Ap. p 31, No. 90.

(c) Ap No. 4 to their Report to the Treasury.

The exclusion from Registration of Instruments, the Abstracts of which do not specify

Townlands, with Barony and County, &c., and the compulsory introduction of the Ordnance Survey names are not only material and radical changes, but would if carried into effect "supersede the existing Registry, as stated by the late Registrar, Mr. O'Connell, in a letter to the Treasury of the 4th July, 1865. In no sense can these proposed changes be called "alterations in matters of detail." Mr. Meldon —

It is not merely a question of trying a harmless experiment which, if not successful, might be abandoned. At present we have a thoroughly successful system in operation, which gives satisfaction and with which little or no fault has been found, and if a radical change is made which does not work well the mischief done will be irremediable. Bearing this in mind it is difficult to discover the reasons why the proposed radical changes should be made. There has been no demand on the part of the public for any material alteration—the great body of evidence which has been taken by the Commissioners is opposed to the suggested changes, and the danger to be run by making ill-advised or experimental alterations in a nearly perfect system is very great. On several occasions law reformers have tried to force these alterations, or at least many of them, on the public, but hitherto without success. On what grounds, then, or by whom is the change now advocated, or what necessity has been shown for the proposed alterations? No demand for the suggested improvements from the public or from any number of practical or experienced persons has been made. I do not find evidence of the existence of any necessity for any material alteration in the present system, and the Legislature ought to be very slow to carry out the views of any persons, no matter how able or distinguished, without the clearest evidence that these changes will be beneficial, and will not interfere with the successful working of a system which has given satisfaction now for more than a century and a half.

Having thus made a few general observations on the proposed changes, I proceed to deal in detail with the most material recommendations in the Report from which I dissent.

In the first place I cannot concur in the view—that all instruments should be excluded from registration, in case the Abstracts thereof brought into the Office do not specify the Townlands, together with the Barony and County, or the City or Town and Parish, as the case may be—I think that all instruments appearing on the face of them to deal with lands, should be admitted to registration. It cannot be doubted that for the convenience of the public and the general usefulness of the Registry Office, the Barony and County, or Parish and City, should as far as convenient be supplied in the Memorial or Abstract brought in for registration.

An attempt was made by the 9th George IV., cap. 57, to exclude from Registration all instruments which do not contain the Barony and Counties, or Parishes and Cities, in which the lands are situate. That Act was specially passed for the purpose, but its provisions were repealed, after an experience of a few years, by the 2nd & 3rd Wm. IV., cap. 87, section 1, as it was found they were inconvenient, and occasioned an unreasonable expense to the parties resorting for information to the Registry Office. As a matter of fact, the Act never was enforced in the department, owing to the great number of deeds which would have been deprived of registration if it had been carried out in practice.

The observations of Mr. Dwyer, the Registrar of Deeds, in his admirable and carefully considered suggestions to the Commissioners (*d*) when dealing with this subject, are well worthy of attention, and commend themselves, I think, to the good sense of every person. In these remarks he points out how difficult it is to enforce compliance with so simple a requirement as the specification in a deed of the places, that is of the County and Barony, Parish and City, or Town, in which the lands or premises dealt with are situate, and he shows that the same difficulties would arise in supplying this information by way of affidavit, or certificate, or abstract, as exists in the case of the deed itself, and he refers to instances of the local situation being omitted in the conveyances from the Landed Estates Court (*e*), where all means and sources of full and correct information are at its command, and where the greatest possible amount of care and trouble is taken to have conveyances in proper form. The enforcement of any such requirement might have the effect of delaying registration, to the possible loss of priority, without having on the other hand any substantial advantage. If the change proposed is introduced, how are certificates of appointment of Assignees in Bankruptcy, which must be registered within a limited time, to be registered? What is to be done with equitable liens, created by deposit of title deeds, transactions which are frequently carried out in great haste, and without full information? What will happen in the case of deeds executed abroad, or in other places, where accurate information as to the situation and names of the lands cannot be obtained, and in cases where the only source of information is the title deeds affecting the premises? What is to be done in the case of creditors taking securities where they have no means at their disposal of

(*d*) App p 127, & seq

(*e*) App p 129.

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ascertaining the exact description of the lands? What is to be done in the case of settlements, often hastily prepared, whereby all lands belonging to the settlor in some particular County, or, perhaps, in several Counties, or possibly in every County in Ireland, are put in settlement, in such cases the parties vitally interested may not have the means, or may he unable to supply the requisites for registration, and there are many other cases in which compliance with the suggested rule would not he practicable, as, for instance, when persons could not have command over or access to title deeds, or when the deeds do not contain the necessary information.

I cannot come to any other conclusion but that it would be unwise in principle, and unjust to the interests of the public, to exclude such Abstracts or Memorials from registration, especially after the experience of the unsuccessful working of the statute passed with a similar object above referred to, the provisions of which, at the time, were condemned hy the then experienced Registrar of Deeds, Mr. Moore, K. C., and finally after mature consideration were repealed as above stated.

In many instances, large properties are dealt with hy general words, especially in instruments releasing lands from charges. On this point, however, I may call attention to the fact that the opinions of the great majority of those examined hy the Commissioners are against this change proposed in the Report. Under these circumstances, taking into account the absence of complaint of the working of the present system, and that no serious inconvenience has been found to result from the existing state of affairs, having regard to past experience, I cannot join in recommending an alteration the result of which would he to exclude from registration a vast number of important instruments, and the introduction of an experimental change which possibly might have a very mischievous effect upon the system of registration in Ireland.

I dissent most strongly from the recommendation—that no names of Townlands should be received for registration save those hy which the Townlands are designated on the Ordnance Survey maps—This is, in my opinion, the most material change contemplated by the Report; it amounts, indeed, to almost a new starting point for registration in Ireland. The expediency of adopting the Ordnance Survey Townland names as the hasis for a Lands Registry, instead of the names by which the lands are locally known, and which are mentioned in title deeds, has heen frequently discussed hy eminent men, and the difficulties and dangers likely to arise from such a sweeping and radical change has heen considered sufficiently great to prevent, up to the present time, the adoption of the Ordnance nomenclature of the lands. The objections which have been so frequently made to the Ordnance maps and Survey are of such weight and importance as to demand, at the least, most full and careful consideration hefore any such recommendation as that contained in the Report be adopted. The vast preponderance of the evidence of those who are qualified, from their professional experience and practical acquaintance with the work of Registration of Deeds, is opposed to the adoption of Ordance Survey names; and the greater number of those persons examined by the Commission condemned, without reservation, the adoption of the Ordnance Survey names of the Townlands as utterly unfitted to supersede the names of the Townlands at present in use and well known in the Title Deeds of Irish Estates.

This subject was fully considered by the Legislature upon the discussion of the Registration of Assurances Bill in 1863. On that occasion the Council of the Incorporated Society of Attorneys and Solicitors in Ireland petitioned the House of Commons in opposition to the passing of that Bill. The late Lord Chief Justice of Ireland (Whiteside), in the debate upon the Bill already referred to, which took place in the House of Commons on the 20th April, 1863, spoke in opposition to the measure, and on this subject, which went (I may say) to the root of the Bill, said: (*f*)—"Then he came to the question of making the Ordnance Survey the "hasis of the registration. On this point one would have expected that the Bill would "have been in accordance with the recommendation of the gentleman" [Mr. Lane, Q.C., the able and distinguished Secretary to this Commission] "whom the Government "had appointed to inquire into and report on the subject, but it was not. They had "appointed a gentleman of eminence at the har to make a report, and after a full con-"sideration of the matter, he abandoned the Townland basis as impracticable." And again (*g*), "the principle of compulsory registration founded on the Ordnance Survey "was opposed to the report of Mr. Lane, and of the Irish Courts."

(*f*) Hans. Deb, vol. 170, p. 458.

(*g*) *Idem*, p. 459.

(*h*) *Idem*, p. 263.

The late Mr. Justice George, also (*h*), "objected to the adoption of the names "of the Townlands as on the Ordnance Survey, because they were in many instances "incorrect, and many old names attached to the estates which were not the names "of the Townlands. The Ordnance Survey ought not to be made the hasis of registra-

" tion, and Parliament ought not to alter a system which had been successful in operation " for more than 150 years." Mr Meldon

The present Lord Chancellor of England on the same occasion also opposed the provisions of the Bill, and observed(*h*) " that the owners of landed property in Ireland " were unanimous in opposing the measure, and had presented petitions against it, pro- " testing against the number and character of the changes which it proposed to introduce, " and declaring that they should view its progress through the House with alarm " and apprehension. He had even heard on good authority that the Bench of Dublin " entertained strong objections to the passing of the Bill, which the House had been " told was almost identical with the objectionable measure of last Session. . . . . " There were three most objectionable points in the measure :—the adoption of the " Ordnance Survey of Ireland, not as ancillary to registration, but as supplanting the " ancient names and denominations of estates; second, the provisions relating to testacy " and intestacy of estates; and third, the substitution for Registration of Memorials of " Registration of the Deeds themselves." After full discussion the Bill was thrown out, and I do not see that anything which has since occurred renders it more desirable at the present time to introduce the great changes proposed by that Bill, and now recommended by the Report. On the contrary, the tide of opinion amongst practical men seems setting the other way.

(*h*) Hans Deb., vol. 170, p. 269.

Mr. Morgan O'Connell, late Registrar of Deeds, in a letter to the Treasury on this subject, dated 9th April, 1863, says(*i*), "I have every reason to believe that the grave objections and difficulties in the way of confining the Register to the Ordnance names of lands cannot be overcome," and again, in his letter of 4th July, 1865, already referred to, he writes that it is "impracticable both in its principle and detail, the more particularly as it would at once supersede the existing registry."

(*i*) Par. Pap. 214, 1863.

Mr. Dwyer, the present Registrar of Deeds, in his Report to the Treasury,(*k*) says, "For my own part I can have no objection to the Registry being based upon the " Ordnance Survey, it would materially shorten and simplify the working of the Land "Registry and Deeds Registry Office. The question is can it be effected." And again "However desirable it might be to have the Ordnance Survey established(*l*), I appre- "hend it cannot be done, and that lands in Ireland must continue to pass by the old " verbal descriptions in the deeds and conveyances by which they have passed and are "popularly recognised."

(*k*) Par. Pap. 425, 1876, page 45.

(*l*) P. 47.

In 1862, previous to the introduction of the Bill I have referred to, a sub-committee of the Council of the Incorporated Society of Attorneys and Solicitors in Ireland considered the question whether the Ordnance survey should be adopted for the purpose of registration. A majority of that sub-committee reported in favour of the scheme. Now, however, the Incorporated Law Society are unanimously opposed to it, as appears by the replies sent in to the questions submitted to them by the present Commissioners. In that reply they say(*m*) :—" We do not think it would be advisable to adopt the Ord- " nance denominations as a basis for registration. This matter has not now, for the first " time, come before us for consideration. In the year 1862 the same suggestion was " made by Colonel Leach, and although many members of the Council of that day were " favourable to the suggested alteration, it was found, on full consideration of the " matter, that it would be utterly impracticable. Many reasons lead us to the conclu- " sion that the balance of convenience is much in favour of the present system." Mr. Beytagh, Q.C., a man of great experience, and whose testimony necessarily carries weight with it, in his answers to the questions issued by the Commissioners in reference to this change, says (*n*) :—" I think this scheme impracticable. It was a feature in the Act of " 13 & 14 Vic., cap. 72, and I believe it was received with dismay, and was one principal " reason why the Act was abandoned."

(*m*) Ap. p. 17, ans. 4 (*b*).

(*n*) Ap. p. 2, ans 4 (*b*).

Mr. Cooper, a solicitor of fifty years standing and of great experience, also a member of the sub-committee of the Incorporated Law Society which was appointed in 1862, after giving evidence that he was thoroughly opposed to the proposed change, goes on to say(*o*), "The practical difficulties in the way are very great, as I showed many years " since, and it would be a very great injustice to holders of old charges on real estate, " who should be allowed to deal with those charges as they stand, in accordance with " the parcels and descriptions of the original Deeds, without being bound to specify, " either in the new deed or in any other way, the names of the Ordnance denominations " in which the lands comprised in the deed are situate," and the opinions and evidence of the persons who have been examined by the Commissioners incontrovertibly prove that this proposed change would not be an improvement, but, on the contrary would be positively mischievous.

(*o*) Ap. p. 10, ans. 4 (*a*).

The principal reasons against the proposed change are the following :—The Ordnance

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Survey is by no means correct as to the Townland boundaries, nor was it ever the intention of the Legislature that *it* should in the dealing with lands, be adopted as the basis of such dealings. The Act creating the Ordnance Survey provides that it shall not be evidence of or affect boundaries, and the Landed Estates Court refuses to admit its correctness, but in every case in which the Survey is followed additional inquiries are made, and notice is served upon all parties whose interests are likely to be prejudiced by the adoption of the Survey.

Mr. Dwyer points out in his suggestions the objection on this ground to the adoption of the Ordnance Survey (*p*) :—"The Ordnance Maps are not legal evidence of any fact "appearing on the face of them, and properly so, for it cannot be denied that carefully "as they have been made, they are not free from inaccuracies, and that too, in particulars "less open to misconception than the names of lands. The boundaries defined by them "are not deemed sufficiently reliable to be made binding on proprietors, and it is an "unquestionable fact that in many instances the names of the townlands on them do "not correspond with the title deeds or with local usage. It is not easy to understand "on what grounds higher authority can be claimed for these maps in the matter of "*names* than in the matter of *boundaries*, considering their mutual dependence upon one "another; for if the boundaries be incorrect, the name assigned to the lands within "their *ambit* must to a corresponding extent, be inaccurate. If the Survey be wrong as "to *area*, it cannot be right in its entirety as to *name*, for the townland boundary is the "basis and limitation also of the townland nomenclature; and an error in the former "must *pro tanto* vitiate the latter. The Landed Estates Court declines to be bound by "either; and so long as it does so for sufficient reasons, the Survey could be made with "safety or success the foundation of the registry system. The consolidation of the "nomenclature of lands effected by the Survey may be safe and useful for public "purposes, but it involves the suppression of names and descriptions, sometimes "denominations in chief, sometimes secondary or sub-denominations by which the lands "have been known and dealt with for ages, and still most useful, if not always essential "as they sometimes are to their identification. If the information derived from these "sources be important, the proper place for its preservation in the future, as in the past, "is the Registry of Deeds. To disassociate henceforth the lands from the names in full "under which they appear in the Index of Lands since its commencement would destroy "the continuity of their history, and eliminate henceforth from the Registry many "subordinate but important aids for the elucidation of difficulties connected with the "identification of lands to be found in the *alias* denominations taken from the title "deeds of past periods.

(*p*) App p. 138, No. 4.

"The Survey proceeds generally on the assumption that an *alias* is merely a *synonym*, "and that a single denomination is equivalent to any number of denominations as "regards the extent of land designated. This is quite too wide a generalization, and if "it be so to any extent, however limited, it would preclude the possible adoption of the "Survey as a legitimate basis for the Lands Index. It frequently happens that lands "are conveyed in ordinary deeds by names that are not to be found at all in the "Ordnance Townland Index to the Survey, and searches are frequently directed against "lands by names not one of which appears on the maps and survey according to the "above presumably correct index. In these cases, for the future, there could be no "registry, as there would be no denomination for the lands on the Ordnance Survey. "The suggestion that the name on the survey should be adopted for the purpose of "registration without prejudice to the statement of the other names in the deeds, would "leave many of the foregoing objections untouched, while it would altogether alter the "present character of the Lands Index, which would no longer harmonize with the title "deeds, as regards the denominations of the lands, and their consequent identity.

"It is to be observed that as the townland would be the unit of registration, the "effect would be a large increase, in one direction, of the entries on the Lands Index. "For instance, there are 63,000 townlands in Ireland; to open a different heading for "each of these would be a most troublesome task, and the risk of error in misplacing "lands on the Index would be greatly multiplied."

(*q*) Ap. p 85, & seq.
(*r*) Ap. p. 63, & seq.
(*s*) Ap. p. 10, ans. 4*a*, *b*, *c*.

Mr. Dwyer (*q*), Mr. Weldon (*r*), in their evidence, and Mr. Cooper in his answers (*s*), give the most ample proofs of the incorrectness of the Survey. It is impossible, in my opinion, to read the evidence of those gentlemen without being convinced that the introduction of the Ordnance Survey as it now exists would be fraught with the utmost danger to persons dealing with land in Ireland. But this is not all; it would be impossible in many cases to identify the names of lands mentioned in deeds or as they are locally known with the names on the Ordnance Survey maps. The names of lands are constantly changed; Townlands are being broken up or called by different names; lands, as they change proprietors, frequently change the names by which they are

known, and the introduction of the Ordnance Survey would obliterate the names of the sub-denominations of lands by which they have for the last century and a half been entered in the Registry, and by which for generations they have been locally known. There exists at present no means by which the public can ascertain by an inspection of the Ordnance Survey Index or Maps the different alias and sub-denominational names, nor does it appear from the evidence that materials exist for the preparation of such an index. Mr Meldon

It occurs to me that it is a very retrograde step indeed to fetter the transfer of land in the way in which it is proposed. Why should the owners of estates be driven to abandon, in dealing with their property, the names of lands well known in their families, and used in all the title-deeds? Again, if only a portion of a Townland is being dealt with, which is known by the name of a sub-denomination, why should this deed necessarily be registered against the entire Townland, and a search become necessary against all the lands contained in that Townland? What is to be done in cases of deeds executed either in the country or in foreign parts, where the Ordnance Survey is not available, and where no reliable information as to the names of the lands can be obtained? Why exclude from registration deeds which for the past 150 years have been admitted thereto? It is said, by those who are in favour of this change, that the deed must not necessarily state the denominations, or the Townlands and Baronies, or Cities and Parishes, but that it will be sufficient if these particulars are stated in the abstract. See what an expense this will lead to. A deed is executed in the form at present used, dealing with lands by the names they have been always known by. This deed must then be handed over to solicitors, or other experienced persons, to ascertain by inquiry, what are the names on the Ordnance Survey by which these lands would be known. Of course, if this inquiry is conducted by thoroughly experienced persons familiar with the Ordnance Survey and the sources of information from which this was compiled, in the great number of instances such an inquiry would be successful, and the necessary Abstract for registration would be prepared at a very much greater cost to the person requiring registration. Take a case where the services of such an experienced person cannot be obtained, or where the Ordnance Survey is not available; in such a case the deed never could be properly registered. The delay, also, that must inevitably occur in the registration of a vast number of deeds, would be a most serious difficulty in the way of adopting any such system. In fact, it appears to me that no person could safely deal with land unless there was, in the first instance, a thorough examination of the Ordnance Townland Index, and maps made by a competent and experienced person. The most practical proof of the impossibility of adopting this Ordnance Survey is that the Landed Estates Court has always conveyed the lands by the names known in the old title-deeds, adding, when necessary, such words "as now known on the Ordnance Survey," and have not adopted the Ordnance Survey names. This is a striking fact, as in most instances, although a conveyance from the Court is the starting point of a perfectly new title, the Court still considers it necessary to preserve the ancient names by which the lands were known.

The instances which have occurred, and which are pointed out in the evidence of the gentlemen above mentioned, put beyond a doubt the inadvisability of making this change. Mr. Maunsell, to whom I have referred in a previous part of these observations, says (*t*)—"There is a doubt whether the Ordnance maps are always accurate, in fact I know they are not;" and he then goes on to show instances where the most serious errors occurred in his own experience, and again when further examined he points out (*u*), another inaccuracy which had recently been brought to his attention.

(*t*) Ap p.30, No 64.

(*u*) Ap. p.30, No. 102.

Mr. Dwyer, in his Suggestions (*v*), points out that in the case of a memorial of a conveyance from the Landed Estates Court of certain lands called Ballyskemagh, otherwise Mount Heaton, in the Barony of Clonlisk, King's County, the name Ballyskemagh, evidently the older name, did not appear on the Ordnance Survey at all, while the name "Mount Heaton," palpably a modern name, appears upon the Ordnance Index and Map. In a case such as this, a person dealing with the land under the old name of Ballyskemagh would find very great difficulty in ever getting his deed registered, unless he, from sources other than the deeds or the Ordnance Survey, became aware that those compiling the latter had changed the name of the lands to Mount Heaton. He also refers to other instances of inaccuracies.

(*v*) Ap p. 138, No. 6.

Mr. Weldon in his exceedingly clear and satisfactory evidence (*w*), points out the inaccuracy of the Survey, and the impossibility of introducing the compulsory use of the names of Townlands thereby adopted.

(*w*) Ap. p. 54, No.689-90.

Of the persons selected by the Commissioners to send their circular questions to as being most competent to give opinions upon the subject of this proposed change, twenty expressed very decided opinions against it; and of the solicitors examined *viva voce* by the Commissioners, but one was found to give any countenance to the change,

MR. MELDON — and this gentleman happened to be one of the Sub-Committee of the Incorporated Society who considered the question and reported in favour of it in 1862.

It has been pointed out in the evidence that the responsibility and liability that would be thrown upon solicitors would be greater than ought fairly to be put upon them, and that the change, so far from simplifying matters, would do quite the reverse. The difficulty also of dealing with incorporeal hereditaments would he insurmountable, and no means are pointed out by which lands known under special names, such as villa residences, should be dealt with. It would be absurd to register every Deed dealing, for instance, with marine residences, against an entire townland. Certainly the facility of making searches would be considerably increased by any such procedure.

I do not think it necessary to pursue the subject further; the evidence contains abundance of opinions, arguments and reasons against the compulsory use of the Ordnance Survey nomenclature for the purposes of registration. I fail to find any general demands whatever made for the change; certainly no substantial evidence on the point was laid before the Commissioners. The expediency of the change has been considered over and over again, and was rejected by the House of Commons in 1863, after very mature deliberation. The late Chief Justice Whiteside, the late Mr. Justice George, and the present Lord Chancellor of England gave it their determined opposition. The Incorporated Society of Attorneys and Solicitors (representing the entire profession) in Ireland are most strenuous and decided in their disapproval of its adoption, having since 1862 reconsidered the determination of their sub-committee appointed in that year. Mr. Dwyer, the present Registrar of Deeds, twenty barristers and solicitors (many of them of great eminence at their profession), who have been interrogated, and five out of six solicitors who have been examined, expressed their decided opposition to the change, and, under these circumstances, I cannot but think that the proposed change in the present system of registration in Ireland would be too dangerous an experiment to try with a system which has heretofore proved so eminently successful.

I cannot concur in the recommendation—that the Memorial as it at present exists should be abolished, and that copies of the instruments to be registered should be furnished—I propose to deal with these two subjects together.

When the system of registration of deeds was first introduced it never was the intention that the system should be used for the purpose of furnishing evidence of the contents of the instruments registered. The Memorial was only to contain certain statutable requirements for the purpose of registration, but inasmuch as parties were not prevented from putting into the memorials such other particulars of the deed as they wished, memorials have come to discharge a function which it never was intended they should have discharged—that is, they are now used as evidence, more or less authoritative according to its degree of the deed itself in the absence of such deed, when its absence is sufficiently accounted for. Strictly speaking, this secondary use of the Memorial is outside the objects of any system of registration. In Ireland, bowever, it has been of considerable benefit, and it has not been shown that such use has been productive of mischief. It appears, therefore, to me that it would not be an improvement to do away with the Memorial and supplant it by the use of a mere abstract.

It must he remembered that the memorial at present in use is an original instrument, executed with all the formality used in the execution of the deed of which it is a Memorial. It is carefully compared with the deed in the Registry of Deeds Office, at least as to the statutable requirements. Memorials of Landed Estates Court Conveyances are invariably copies of the Deed, because the Landed Estates Court Conveyances are short, and do not contain lengthy covenants and trusts, and though it is open at present to any person interested when lodging a Memorial to lodge as a Memorial a copy of the deed, yet in practice no such copy ever is lodged, which is cogent evidence as to the dislike existing to having it done. It is therefore quite unnecessary to make any change with respect to the lodgment voluntarily of a copy of the instrument to be registered. The principal objection to making the lodgment of a copy of the instrument compulsory is that the provisions of family settlements and other private instruments would be thrown open to the public. The only result of rendering it compulsory upon everyone registering a Deed to disclose the full particulars thereof, would be that there should be two Deeds, one containing merely what was requisite to transfer the land, and another disclosing trusts, conditions, covenants, &c. This would be imposing expense and hampering, instead of facilitating the transfer of land to a much greater extent than I think the Legislature ever would sanction.

In the next place the introduction of any such system would make it necessary to increase the staff of the Office very considerably, and would add enormously both to the expense of the Office, and to the expense of those who had to avail themselves of

registration. It has been pointed out in the evidence that very serious difficulties would be thrown in the way of registration by the proposed change. Abstracts by non-official persons never would be made as carefully as they now are found to be by officials. The space that would be required for storage would be very large, and no advantage whatever would be gained save making a provision for the preservation of evidence—a purpose altogether foreign to the principle of registration. Mr. Meldon

The system of registration never was intended for the purpose of providing parties with evidence of the contents of the Deeds, and unless *the system* is to be changed into one for perpetuating evidence, and rendering the safe custody of original Deeds of small value, the change proposed by the Report ought not to be adopted. It is rather a strong measure to force persons to expose their titles and to open the contents of their private Deeds for public inspection merely because they wish to avail themselves of a system of registration. I cannot see any reason for compelling a person in possession of land to disclose his title to a hostile claimant, and to afford opportunity to an adversary or ill-disposed person to con over and discover some possible technical flaw in his title. Why should transactions which ought to be considered of a private character, and with which the public have nothing to do, be thus thrown open to the inspection of every one who chooses to pay a fee? Mr. Cooper, above referred to, in his answers, says :— (*x*) "I do not approve of, but wholly oppose, the abolition of Memorials. I consider that the registration of deeds effecting real estates, in the manner provided by the original Act of Anne, is as nearly perfect a system as could be devised, and that it should not be disturbed. It has become one of the settled institutions of the country, and has worked very well, indeed, and I see very grave objections to the substitution of short abstracts in a proscribed form. If it was forced upon me I should not like to undertake to prepare a short abstract. The memorial is a most valuable document, not only as secondary evidence of the contents of the deed, in the event of its loss, but as giving information on the subject when access to the deed cannot be easily or at all obtained, thus enabling the searcher to ascertain the nature of the deed the time of searching. It is often of great importance in enabling the vendor or mortgagor in many cases to satisfy the vendee or mortgagee that certain acts then upon the search do not effect his title, without the delay and expense of producing or furnishing copies of the deeds; which in some instances, from the existence of intermediate interests, &c., it would be impossible for him to produce or furnish at any expense for such purpose. The abstracts which have been proposed, even if carefully prepared, which they would not always be, would be almost useless, and the result of their substitution would be that many transactions would have to be broken off, which, under the present system, would be successfully carried out. Besides this, the verification of the execution of the deed and Memorial by the affidavit of one of the witnesses at present required as a condition of registration affords a valuable protection against fraud." (*x*) Ap. p. 10, ans. 5.

Some idea of the value of the memorial may be formed from the fact that the average number of copies of memorials supplied to the profession exceeds 1,700 a year, and the average number of original memorials produced in courts of law as secondary evidence exceeds 50 a year.

In the event of the Abstract as recommended by the Report being adopted, persons would be prevented from setting out in the Abstract anything but the statutory requirements; consequently the use of such Abstracts for the purpose of furnishing secondary evidence, as the Memorials do at present, must be abolished. This would lead to a great inconvenience, and would be opposed by the great majority of persons who have a knowledge of the subject of registration. It occurs to me, therefore, that as the present system is one that works remarkably well; that there is no demand for a change with respect to the Memorials; and that it would be a very questionable improvement indeed to oblige parties to lodge copies of their Deeds; and that this change would not be in the direction of improving the system as a registering system, but merely to provide a depository for documents which would furnish evidence of the originals in case same were lost.

Of the persons whose views have been ascertained on this subject, the great preponderance of the evidence elicited by the Commissioners is against this proposed change. Mr. Dwyer, the Registrar of Deeds, and twenty-one of the persons who sent in answers to the queries of the Commissioners, have expressed themselves as strongly opposed to the change; and four out of five of the solicitors examined *viva voce* have condemned the alteration. Under these circumstances, in the absence of any demand put forward for a change, the great weight of evidence being in favour of the system as at present, and the unanimous opinion of all persons with a knowledge of the subject that the present system works well, I cannot concur in the recommendation of the Report on this point. Complaint has already been made of the expense of it. In my

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opinion if the changes now proposed are made, the expense will be very largely increased, without, so far as I can see, any corresponding benefit to the public.

I must dissent also from the recommendation—that equitable mortgages by deposit of Deeds should, if not registered, be postponed to registered instruments.—I am not very clear that any inquiry into this subject was open under the Commission; but in the absence of evidence on the subject from bankers and others vitally interested in the question, I cannot assent to the proposed change which would very seriously interfere with banking and other commercial transactions. It must be remembered that moneys are often borrowed on the security of deposit of Title-deeds in a hurried manner, and frequently but for a very short period of time. If it was compulsory that there should be a memorandum, signed by the depositor, stating all the details recommended by the Report, and that these documents should be registered, very serious impediments, would be thrown in the way of this class of security. Great hardship would also be inflicted by making these transactions public by registration, whereas no serious objection can be made to the want of registration where the Title-deeds are deposited. The absence of the Deeds is quite sufficient to place persons dealing with the lands, the subject of the equitable mortages, on their guard. Under these circumstances, taking into account the magnitude of the proposed change, I cannot, upon the evidence given on the subject, considering that bankers or merchants were not represented before the Commission, concur in the views put forward in the Report.

I dissent from the portion of the Report recommending the abolition of Judgment Mortgages. The case against the proposed change is very pithily put by Sergeant Sherlock, Q.C., M.P., where he says: (*y*)—"The legislation connected with Judgments in "Ireland has been so contradictory as to create considerable injustice. The system of "Judgment Mortgages was an anomaly, but any new legislation is at the present un- "necessary. It would cause fresh complications, create new legal difficulties, and lead to "more injury than benefit to the proprietors of property in Ireland." The Incorporated Society of Solicitors, in their answer to the Commissioners' queries, say: (*z*)—"(*a*.) We "approve of judgment mortgages as a means of securing and recovering debts, and more "especially beneficial to creditors, since the abolition of arrest for debt. But we consider "that judgment mortgages should take priority from the date of their registry over un- "registered deeds. (*b*) While such a remedy exists we do not recommend the adoption "of the English system in Ireland as settled by the 23 and 24 Vict., c. 38, and 27 and 28 "Vict., c. 112, the latter being, as the Commissioners state, 'merely a step towards the "immediate realization of the creditor's demand,' while the judgment mortgage not only "provides an immediate remedy, but also affords security to the creditor in case he does "not desire to press his debtor, and we think in fairness and mercy to the debtor, such "an opportunity should be afforded."

(*y*) Ap. p. 3, ans. 13.

(*z*) Ap. p. 19, ans. 13.

Owing to the very technical decisions which for many years were given on the Judgment Mortgage Act these securities became really of very little worth, but of recent years decisions on this Act have been more consistent with common sense, and very little difficulty now arises from the points which in past years created the greatest difficulty. They have been of very considerable benefit to judgment debtors and often saved them from ruin in cases where either under the old system or under the English system their lands would have been sold. The public have become quite familiar with them as securities, and I have no doubt the abolition of them would cause very great dissatisfaction. They have worked tolerably well, they are now thoroughly understood, and I cannot concur in the prudence of again unsettling the law with respect to judgments.

The proposal to do away with the sale of chattel interests under writs of *fieri facias* is one that will not commend itself to judgment creditors, and the proposal that in all cases where judgment creditors wish to have the lands of their debtors affected by their judgments they must forthwith institute a suit for sale, is one that will add very considerable expense to the realization of debts and will preclude the possibility of debtors discharging the claims upon their lands without sale. The proposal that forthwith after a suit is concluded by the recovery of a judgment, the creditor is to commence a new suit to give effect to his judgment, is one that will be favoured more by the legal profession than by judgment creditors. At present in Ireland, the latter class of persons have an immediate remedy against their debtor's lands, either by a writ of *fieri facias*, or by judgment mortgage, which at once attaches the debtor's lands named in the affidavit, and becomes forthwith a security. I cannot, therefore concur in the recommendations of the Report on these points.

I have dwelt shortly upon the most material points on which I differ from the Report, and in conclusion I can only say that it is under a deep sense of the responsibility which I should incur in advocating a radical or material change in a system which heretofore

has worked so successfully, that I have ventured to differ from the expressed opinions of the majority of my colleagues. The system of registration in Ireland is one of which we may feel exceedingly proud, for, where other systems have failed ours have been successful, and in all the testimony that has been laid before the Commissioners, there has not been a scintilla of evidence given of failure. In the Landed Estates Court sales have taken place upon the faith of searches under this system, to the extent of thirty or forty millions, and in every case without mistake. It is therefore with great reluctance, but at the same time without any misgiving as to the propriety of the course I am pursuing, that I dissent from the recommendations made by the Report above indicated, all of which, in my opinion, would be alterations of a tentative and speculative nature. Mr. Meldon

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As I concur in most of the recommendations contained in the Report, it was my intention to have signed it, subject, as to parts thereof, to the opinions hereinafter expressed, but owing to accidental circumstances I was prevented doing so. I differ from the recommendations of my colleagues on some important particulars; and as I was unfortunately unable to attend most of the meetings of the Commission at which the Report was drawn up, I feel bound to state my views at greater length than perhaps would otherwise be necessary.

In that part of the Report which deals with the Record of Title I cannot concur; it seems to me that the recommendations therein contained, and the arguments on which they are founded are outside the strict scope of our inquiries. We were appointed, according to my reading of the Commission, to consider the working of the Record of Title Act with a view to its amendment and improvement—not its abolition, and I see nothing in the terms of the Commission to justify the belief that our opinions were sought on the high question of policy, as to whether a system of Record of Title or Registry of Deeds should be continued or abolished. I am the more confirmed in this view by the distinction drawn in the Commission, between the Record of Title and other subjects submitted to us. The terms of the Commission on this branch of the subject are the following:—

"To inquire into the operation of the existing system of Recording Title in Ireland, "and whether, having regard to the system at present in use in England, or otherwise, "any and what *alterations and amendments* should be introduced into the same;" but on another branch of the subject we are directed "to inquire whether it is expedient "that the system whereby creditors under judgments, decrees, and orders, are enabled, "by registration, to make such securities charges upon lands and hereditaments in "Ireland should be *continued or amended.*" To my mind we have here a clear and defined limit to our inquiry in regard to the Record of Title, and contrasting the different expressions used in the two paragraphs quoted above, I cannot help thinking that whilst in the one case we were asked to express our opinion as to the desirability of the continuance or abolition of a certain proceeding, in the other, we were advisedly restricted to a consideration of amendment and improvement.

At first sight this may, perhaps, seem a purely technical objection, but a little consideration will show that there is much more involved in it. It being decided by my colleagues that their duty was to inquire into and report on the general policy of the recording system, the other point, the amending or improving that system, has been lost sight of or ignored, and although none of us, I am sure, would hold that the present Record of Title Act is incapable of amendment, or that if the system is to be continued, it ought to be continued without alteration, yet, neither in the form in which the evidence was sought, nor in the report itself is there anything that would help to a right conclusion on these points. From the very start the Record of Title system seems to have been before us on its trial for life or death, and it came before a tribunal, most of the members of which entertained, to say the least of it, no preconceived feelings in its favour. The whole drift of the inquiry was of a totally different character, in regard to the Record of Title, from that which it was in regard to the rival system of Registry of Deeds, and a very cursory view of the queries (*a*) adopted by the Commission at one of their earlier meetings will show this difference. Naturally the evidence given in reply to these queries was not of a character to throw much light upon possible amendments in this Act, and the Report itself, or that part of it which deals with the Record of Title, and from which I dissent, is, in the main, an elaborate and most able argument upon the principle rather than on the practical working of the system in Ireland. With the exception of the historical resumé, the greater part of it might have been written just as well the day before the Act received the Royal assent, as now, after its twelve years working, and with every

(*a*) Ap p 1.

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respect to my colleagues, I must say that it seems to me scarcely to depend upon the evidence given to us, except so far as that evidence was theoretical. Entertaining the views which I do as to the matter which was submitted to us, I do not feel justified in entering into a consideration of these general and theoretic objections, and, even were I justified in so doing, I should be very slow in setting up my own individual opinion against those of the very eminent and experienced men associated with me in this inquiry. I would, therefore, rather confine myself to what seems to me to have been proved by the evidence as to the practical working, the success or failure, and the cause of the success or failure, of the Record of Title Act.

That the Act has been a failure in Ireland no one, I think, can deny, but whether that failure was due to defects in the Act itself or to external circumstances, or, if due to the former, whether those defects are not capable of being remedied, are all points on which different opinions may be held. At all events, I cannot concur in the opinion that the failure was entirely or, indeed, mainly due to defects in the Act, and still less am I able to admit that the defects which undoubtedly do exist are incurable. The evidence given to us appears to me to demonstrate the following propositions :—

First. That from the very commencement down to the present day the profession of solicitors set themselves against the working of the Act.

Second. That their opposition was, in the main, a blind and ignorant opposition, made without any inquiry, and resting on the ground of a general dislike to change of any sort.

Third. That this opposition has resulted in the Act being carried on under disadvantages, and attended with drawbacks which have compelled some of the few solicitors who did approve of its principle, and who tried to work under it, to withdraw their approval.

Lastly. That although the Act, in consequence mainly of this opposition, has not had very general operation, yet where it has been tried it has not broken down, and has not resulted in practice in the evils theoretically predicted.

To say that the Record of Title Act has never had a fair trial in Ireland, and that it met, from the start, with the most determined and active opposition from that branch of the legal profession most nearly concerned with its working, would be but to affirm a proposition proved by almost every line of the evidence. Not one single witness, I believe, has denied this; and we have but to turn for its proof to the evidence of Mr. Read, Mr. Maunsell, Mr. Dix, Mr. Keily, Mr. Littledale, Mr. White, Mr. M'Donnell, and, I might almost say, every witness who spoke on the subject. Mr. Read (the President of the Incorporated Law Society) is a particularly important witness on this point. He was originally a supporter of the Record of Title system; he had advised clients to work under it, but he has now changed his mind, and he has joined with the Society of which he is the head in condemning the Act. In his evidence he told us that he found some difficulty and inconvenience in particular instances of recorded titles, to which I will presently allude; but as those cases did not occur until long after he had ceased to regard the Act with favour, we are forced to look for the reason of the change of his opinion to some other cause, and he gives it himself in the following words. He says (*a*):—"I saw it (the Record of Title Act) was a doomed measure, for it had become extremely unpopular, not only in my own profession, but also amongst members of the Bar." And he further states (*b*) that there was no desire on the part of the profession to facilitate the working of the Act.

(*a*) Ap. p. 112, No. 1928.
(*b*) Ap. p. 113, No. 1930.

Mr. M'Donnell, the Recording Officer, in the evidence he gave to the Commission, as well as in that given to a Committee of the House of Commons, states (*c*) that the greatest obstacle in the way of the success of the Act "is its unpopularity with the profession;" and to this, in the first instance, and chiefly, he attributes its failure; and Mr. Littledale, the only witness besides Mr. Read who had, at any time, approved of the Act, says (*d*) :—"I think that the Record of Title Act never had fair play from the first, and it has not fair play now;" and in a subsequent answer he says "the solicitors have always offered opposition to it; but amongst the persons who have recorded their own titles, a large number are solicitors;" and again he says, "There is no body of men who are more opposed to new systems, and to trying new systems, than solicitors—they are worse even than farmers."

(*c*) Ap. p. 78, No. 1165.

(*d*) Ap. pp. 76–77, No. 1115, 1120, 1140.

Pages might be filled with similar evidence to prove that the profession was opposed to the working of the Act; but this will scarcely be denied, and therefore I pass on to the consideration of the next point:—Was this opposition a well-informed, reasonable opposition, or due, to any great extent, to experience in the working of the Act? On this point I have no hesitation in expressing my own belief that not one solicitor out of twenty has, even to this present day, taken the trouble of making himself acquainted with the provisions of the Act, and the solicitor who could give a client reasonable advice, founded on a thorough knowledge of its provisions, is, indeed, the exception. There is one provision in the Act of which this cannot be said, and that is the one by which an

estate will be recorded after having been sold in the Land Court, unless a notice of objection to this course be lodged by the purchaser within seven days after the conveyance is executed. This provision is well known, and the almost universal practice is to send to the purchaser of an estate a form to be signed, requesting that the estate should not be recorded. This form is usually sent without one word of explanation to every client, with a request that he would sign it and return it immediately, just as if it were one of the necessary formalities attendant on a purchase. In addition to this fact, the evidence is absolutely overwhelming; and when we find a gentleman like Mr. Keily, after expressing the strongest opinion against the Act, admitting (*a*) that he could point out no defects in it, and that he did not understand it, and that that was one of the reasons why he objected to it, and another solicitor, Mr. White, urging as his chief objection to it (*b*) that under it the original deed was retained by the Court, quite ignorant or oblivious of the fact that duplicate deeds are always furnished when asked for; and another gentleman, holding such a high position in his profession as Mr. S. Davis (*c*), objecting to the Act because it was "*not comprehensive*," and, at the same moment, advocating a Registry of Deeds because "*it was comprehensive*," one of the proofs of which he stated to be, that it affords "*a means of investigating title*," in other words, a means of investigating that which, under the so-called *less comprehensive* Act, is declared and recorded, it is difficult to avoid coming to the conclusion that not alone has the profession declared against the Record of Title system, but that they have done so without ever taking the trouble to learn what it really meant.

(*a*) Ap. p 42, No 430, 431.

(*b*) Ap p 118, No. 2082.

(*c*) Ap p 25, ans (1*b*)

If it be admitted that the solicitors have declared against the Act and have done everything they possibly could to prevent its adoption, the next point follows almost as a necessary consequence. Scarcely anyone, if anyone at all, purchases land and takes out a conveyance without the intervention of a solicitor, and very few clients are likely to disregard the opinion and advice of their solicitors in connexion with the placing of their property under a new and untried system. That the clients know nothing on this matter, and act blindly on the opinion of their solicitors, was frankly and fully admitted in the evidence. Mr. Dix, in answer to a question whether the objection to the Act was a client's or solicitor's objection, says (*d*), "I don't think the clients know anything about it. I don't think the clients have much knowledge of the Record of Title Act." Mr. Maunsell says (*e*). "I advise every client not to do it." Mr. Keily says (*f*), "I don't know that they (the clients) have objected to it much;" and another solicitor, Mr. Coppinger, at once assuming all authority in the matter, says (*g*), "I never permitted any conveyance prepared in my office to be recorded." Nor has the professional opposition been confined to advising clients not to place their estates on the Record. The evidence shows that it has gone much further, and latterly it is operating in a way which renders the placing an estate on the Record a positive disadvantage, and prevents such solicitors as were anxious to give the Act a fair trial from doing so. To place one's estate in a position in which it would be difficult to borrow money on it would obviously be to place it at a disadvantage, yet this is one of the results of placing it on the Record. The borrowing and lending money on real property is mainly in the hands of the solicitors, and it appears from the evidence that many of them have determined to throw obstacles in the way of such transactions in connexion with recorded estates. Mr Keily says (*h*), "It may have been prejudice at first, but it has become perfectly impossible to work it. For instance, a client in lending money won't lend on it (a recorded estate)," and the reason why a client won't lend is very clearly expressed by Mr. Dix, who, after telling us that the clients know nothing about it, goes on to say (*i*) that he objects to lending money on recorded estates, and that in some instances he required the title to be taken off the Record before lending.

(*d*) Ap p. 48, No. 617.

(*e*) Ap. p. 34, No 171.

(*f*) Ap p. 42, No. 427.

(*g*) Ap p. 26, ans (1*b*)

(*h*) Ap p 40, No 384

(*i*) Ap p 49, No 621.

Notwithstanding all these difficulties and the obstacles thrown in its way, I am inclined to think that the results of the working of the Record of Title Act in Ireland have been far from unsatisfactory or discouraging. Close on 700 Titles have been recorded. Many of them have since been dealt with in the most complicated manner, and the fact stated by Mr. Littledale (*j*) that, although the solicitors in their professional capacity have opposed the Act, several of them, in their private and personal character, have been ready to take advantage of it, is remarkable. In the next place, out of the 680 estates recorded, it does not appear that in one single instance anybody has suffered any wrong through an error of the Court or the Recording Officer. This is the more worthy of note as the liability to those errors is the one great argument urged against the Act, and it is very generally admitted that in working it out it has not been placed in the important position which it deserves to occupy. For several years the duties of Recording Officer have been tacked on to the already onerous duties of another post in the Landed Estates Court, and indeed from the very commencement the Act never got fair play in this respect. Shortly after it became law, by the death of Judge Hargreave, to whom its working was to have been entrusted, it lost an active and friendly head,

(*j*) Ap p. 76, No 1120

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and all the witnesses agree that the official recognition of the Act and the facilities for carrying it on were very imperfect. The business being considered small, the official supervision and attention given to it were placed on the same scale, and this naturally reacted on the business. Small as was the business, the attendance given to it was insufficient, and the delays and inconveniences arising out of this naturally drove business away. For several years the duties of Recording Officer have been, as was well said by one of the witnesses, "in Commission," and have been discharged under a temporary arrangement by Mr. M'Donnell, one of the examiners of the Landed Estates Court, and although too much cannot be said in praise of the way in which that officer discharges his duties, yet it must be evident that if the Record of Title system was to be extensively adopted such an arrangement would be absolutely inadequate. All the solicitors who did try to work under the Act complain of the delays and uncertainties of business in the office, and both Mr. Littledale(*a*) and Mr. Read(*b*) urge this as one of the reasons why the Act has been gradually going out of favour instead of increasing in repute.

(*a*) Ap. p. 77, No. 1127.

Passing from this further difficulty the Act has had to experience, and passing from the consideration of the small number of estates recorded, the next point to be considered is what has been its operation in respect to the recorded estates. This, it seems to me, was the main point into which we were directed to inquire: "*The operation of the existing system of recording Title in Ireland,*" and I feel bound to dissent from the conclusions drawn from this in the Report. The number of instances of even alleged error or inconvenience arising out of the operation of the Act is very small. There is but one alluded to in the Report, and that is a case in which a recorded owner devised his estate to his three sons as tenants in common, but in recording this devise an error was made, and the sons were recorded as joint tenants. This error was evidently as much the fault of the parties themselves, or of their solicitor, as of the Court. It was not a thing done behind their backs, and of which they had no cognizance. Moreover, no actual injury arose even here, the error was discovered and corrected, and although it proves that under a system of Record of Title errors may arise through the carelessness of the parties or their solicitor, in proving this it proves nothing which could not be as easily proved against any other existing legal institution, and most certainly against the existing system of Registry of Deeds, through "technical defects in which," according to the Report, "innocent persons, even after a lengthened enjoyment, have been deprived of their properties, or lost the priority of their incumbrances, and with such priority their money, honestly advanced."

(*b*) Ap. p. 112, No. 1923–24.

Report, p. xxxiii.

Mr. M'Donnell, the present Recording Officer, himself an opponent of the Act, stated to a Committee of the House of Commons (*c*), that since the commencement of its working down to the present day he could discover only three cases of error, the one above alluded to and two others, and in none of these had any one suffered any loss, and in each case the error could not have arisen if the solicitors had done their duty.

(*c*) Ev. Land Title and Trans. Rep., p. 117, No. 2335–2338.

It has been urged by some of the witnesses that great inconvenience and expense has been caused in some cases through the operation of the Act, and as this is a very important point in connexion with its working, it is well to consider what these cases were. Mr. Read urges these cases as accounting to a certain extent for his change of opinion, and for his now being an opponent of the Act, although in the commencement one of its supporters. He refers, however, only to two, and as one of them arose long after his change of opinion, it is not very easy to understand how it could have helped to bring about that change. The first case he quotes (*d*) is one in which the verification of the transfer of a recorded property had to be performed by a clerk from the Court who had to be sent to Scotland at great expense for this purpose. Here the objection is evidently a mere formal one, and in no way touches the principle of the Act. There seems no reason why the verification of a deed should not be similar in regard to recorded estates to that which it is in other cases, and besides, Mr. M'Donnell informed us (*e*) that the practice of which Mr. Read complained has already been given up by the Court itself, and that no such inconvenience could now arise.

(*d*) Ap. p. 112, No. 1928.

(*e*) Ap. p. 85, No. 1344.

The next case, and the one on which he sets most value, is a case where an estate was claimed under an unproved will, where, in fact, the title of the claimant was not a good legal title; and it certainly is a strange argument to use against the Act, that a claimant who had a bad or unprovable legal title could not get it recorded and made indefeasible.

Mr. White, who was also called as one of the solicitors who had experience of difficulties in the working of the Act, refers to this latter case (*f*), in which he too was engaged, and to one other in which arrears of rent might have been lost, although, as a matter of fact, it does not appear that they were lost, in consequence of the omission to take out a duplicate conveyance of a recorded estate.

(*f*) Ap. p. 118, No. 2092.

Mr. Dix alludes to two cases, one (*g*) in which an eccentric nobleman, resident in Paris, refused to sign a deed which was necessary in connexion with a partitioned estate, and

(*g*) Ap. p. 48, No. 621.

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his refusal caused delay and expense; and another where in consequence of a trustee being absent in India an estate could not be recorded in the name of a co-trustee without a disclaimer from him, and here also delay and expense arose; and Mr. Maunsell mentions a case (*a*) where a small bit of land had not been properly recorded, and where, in consequence a transaction in connexion with a large estate of which this small bit was a portion had to be delayed.

(*a*) Ap. p. 12, No. 177.

So far as I can make out from a careful examination of the evidence, these are the only cases, even of alleged inconvenience, brought forward to support the wholesale condemnation of the Act by the profession, and if a system is to be condemned because the conduct of an eccentric nobleman in Paris, or the absence of a trustee in India causes delay and expense, I wonder what system would escape condemnation.

An examination of the evidence given against the Act appears to me to show:—That no one has suffered any injury under it; that only three technical errors have arisen since it came into operation; that in each case these errors were corrected, and that the cases of alleged inconvenience and expense which have been brought before the Commissioners, are of the most ordinary character, and quite inseparable from any system of registration or recording, or even of any dealing with property by legal deeds.

How far the Act may be amended or improved, and in what way it may be so amended and improved, I feel very incompetent to decide. As I mentioned before, we did not direct our inquiry specially to this, and I believe a further and special investigation of it would be desirable. At the same time there are certain salient points on which an opinion may be offered. It has been suggested that the Act might be assimilated to the principle of Lord Cairns' Act in England, and that nothing but the primary interests in land should be recorded, all subordinate interests being protected by caveats and inhibitions. I am not prepared to recommend this, as I believe the principle of the present Act, if it can be surrounded with sufficient safeguards, is the more comprehensive and useful.

Of one thing I am quite certain, that no purely voluntary system can be successful so long as the feeling entertained by the profession is what it now is, and no measure can get even a fair trial unless in the first instance at least it is made compulsory. I quite concur with my colleagues that the Irish Record of Title Act has been a failure; that it is gradually going out of favour year by year; and that if left in its present form it will in a very few years be altogether dead; but I do not join with them in recommending that on this account the Record should be closed, and all recorded estates transferred to the Registry of Deeds system. Experience proves that nearly all legal reforms must be, to a certain extent, and, in the commencement, compulsory. There is a great deal of truth in Mr. Littledale's remark that the solicitors as a body are more averse to change even than farmers, and the whole of the evidence proves that one of the strongest objections which the profession had to the Act was that it was new; that they did not understand it; and that they preferred and thought it better to work under a system which they knew and understood. Yet this very system of the Registration of Deeds, which is so much valued in Ireland, would not have a chance of acceptance if it were not practically compulsory. This is proved by a reference to the feeling in England, where the great mass of the profession is just as much opposed to the Registry of Deeds as their brethren in Ireland to the Record of Title. To make this latter Act successful it seems to me essential that every estate passed through the Land Court should, as a matter of course, be placed on the Record, and that there it should remain until some subsequent dealing with the estate rendered it expedient in the eye of the owner to remove it. I would not take away from the owner in such case the right to remove it. The expense of removing an estate from the Record is very trifling. Mr. M'Donnell (*b*) estimates it at about £5, and Mr. Read, speaking of a particular and perhaps exceptional case, estimates it at £10 (*c*). It would therefore be no great hardship to compel an owner who has got all the advantages of a purchase in the Court to pay this small sum if he wished to take his estate off the Record. Beyond this I do not think it would be necessary to extend compulsion. I believe that if every estate purchased in the Court were recorded, and if it had to remain on the Record until some subsequent transaction or dealing with the property induced the owner to go to the expense of taking it off, very few estates would ever be removed, and the system being thus tried on a large scale, and its advantages becoming apparent, it would be as popular as the Registration of Deeds has now become. Bearing on this point it is a remarkable fact that, great as has been the opposition of the solicitors to recording, and small as is the expense of removing an estate from the Record, of the estates once placed on the Record very few have ever been removed, the total number of such cases being only ten, in several even of which, according to Mr. M'Donnell, the closing of the Record did not prove dissatisfaction with the system, but were due to the action of the Court in a re-sale.

(*b*) His Letter, Ap. p. 146.

(*c*) Ap. p. 114, No. 1972.

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It is very generally admitted that in all simple transactions—such as sales, mortgages, and direct charges—the Record of Title possesses many advantages over any other system. This is admitted by the Incorporated Law Society; instances of the advantages arising from it were quoted by Mr. Littledale; it has been proved by the experience of the Colonies; and is supported in every case by the answers received from all the Colonial authorities consulted by the Commission. The titles with which the system would have to deal in Ireland are just as clear as those in the Colonies; and where no complicated settlements subsequently arise, there seems no reason why the Act should not work equally well as in the Colonies. The cases in which those complicated settlements do arise are not so numerous as is often supposed. Mr. Read admits (*a*) that, in his opinion, it would not be an overestimate to calculate that three-fourths of the deeds which are now registered are of a simple character, and, so far as these are concerned, the Record of Title system would possess advantages. Everyone, I think, will also admit that it ought to be the object of legislation to discourage complicated deeds, and the creation of a multitude and variety of interests in the ownership of lands. The whole tendency of modern legislation has been to discourage such proceedings, as the tying of properties for generations, the creation of successive life estates, and everything which tends to make the man in actual present possession a mere temporary owner, with little or no power over his property, and no interest in its future. And, unless this legislation is to be reversed, it would be unwise to abandon a system which is admittedly applicable to three-fourths of the transactions at present carried on, and to abandon it because, in some of the complicated cases which ought to be discouraged, its retention might cause some trouble.

(*a*) Ap. p. 114, No. 1952.

To my mind, the closing of the Record and the repeal of the Record of Title Act would be a retrograde step of the most aggravated character; it would be a reversal of the policy of Parliament for the last quarter of a century; it would be a recognition of the principle that the interests of those who dealt in complicated transactions should be paramount; and it would, so far, be a direct encouragement to the continuance of these transactions. In Ireland we possess advantages for the establishment of the recording system which are not possessed by Great Britain. Through the instrumentality of the Landed Estates Court, which is now a branch of the Chancery Division of the High Court of Justice, we start with a title just as clear and fresh and young as any title in the Colonies. Is not this worth preserving? or must we allow these titles, in the course of a few years, to revert to the old state, with all the old charges, and deeds and complications, simply because in some few cases the preservation of a clear record might cause trouble and expense, and, perhaps, even entail risk? In the course which I suggest, even this difficulty would be got over, because it would be optional with the owner to take his estate off the record, if he desired to enter into complicated settlements; and, at all events, the simpler transactions which we desire to encourage ought not to be placed at a disadvantage on account of the more complicated ones. This is what is at present done, and what, I fear, would be the result of the recommendations in the Report. That simple transactions are now loaded with enormous and extravagant expense, in consequence of the difficulties attendant on more complicated ones, cannot, I think, be doubted. To prove this we have only to look at the scale of charges, approved some years ago, by the Incorporated Law Society, and recommended for adoption to all the members of that Society. The charges entered in this scale represent merely the remuneration to which the Society think the solicitors are entitled for their skill, labour, and responsibility, in carrying out loans or sales. The scale does not include counsels' fees, scrivenery, journeys, expenses of a litigious character, or, in fact, any payment out of pocket. It represents merely the solicitor's own work, ascertaining the title, placing it before counsel, and seeing that his directions are carried out. In almost every case, according to Mr. Read (*b*), counsel's opinion is taken, and this opinion removes all responsibility from the solicitor as to the accuracy of any legal or other deduction derivable from the facts laid before him. Whether the title on which the loan is sought, or of which the sale is proposed, is good or bad, safe or unsafe, is decided by counsel, and for this a separate and distinct charge is made in proportion, of course, to its complexity. The solicitor's labour, skill and responsibility consists simply in correctly ascertaining the facts, laying them before counsel, making the necessary searches, and embodying counsel's instruction in a deed, which deed, as a matter of course, is again submitted to him for his approval.

(*b*) Ap. p. 115, No. 1999.

For this labour the following amounts or per-centages are charged:—

For the 1st £500 of every Loan, a charge of more than 5 per cent.
For every subsequent £100 up to £2,000, 3½ per cent.
For every subsequent £100 up to £10,000, 1¼ per cent.

And for *Sales*—

For the 1st £1,000 on every Sale, over 5 per cent
For every subsequent £100 up to £5,000, 3½ per cent, and
For every subsequent £100 up to £50,000, 1½ per cent.

A person wishing to borrow £500 upon an estate worth £1,000 has under this rule to pay for mere solicitor's expenses £26 5*s.*, and if he wishes to sell the estate he has to pay £52 10*s.* He may have purchased only a few months before—he may hold a Landed Estates Court Title, as clear and good as any Title could be; yet according to this scale, this per-centage must be paid. Had he invested his money in Consols instead of in land he would have to pay his broker, for a similar transaction, viz., a transfer, 2*s.* 6*d.* per cent. instead of £5, or on the £1,000 just £1 5*s.* 0*d.* instead of £52 10*s.*; and if we ask ourselves why is this monstrous charge placed on a transaction which involves little or no skill, labour, or responsibility, the answer must be that the charge is an average one, based on the great variety of transactions which take place, and the owner of a simple and clear Title has to pay for the complicated transactions of his neighbour.

To understand all that this scale signifies it is, therefore, necessary to consider it in the light of an average scale, fixed at such an amount as will compensate the solicitors all round for the big and little transactions, and leave them very much in the same position, so far as remuneration goes, as if ordinary bills of costs had been charged for each item of work done. Regarding it in this light it must be clear that, taking the ordinary class of Titles dealt with, the solicitors remuneration, under an ordinary bill of costs, would be far in excess of 5 per cent. on a £500 loan or £1,000 sale. If this were not so the scale stands self-condemned as extortionate. The labour and skill for which a solicitor in a bill of costs is paid, is often more in a small transaction than in a large one. Mr. Read (*a*) assures us that, as a rule, the small transactions are the most troublesome and complicated, and, taking them all round, they may be set down as at least as troublesome and complex. If the scale correctly represents what the solicitors would without it receive under ordinary bills of costs, the amount fixed on the smaller transactions must be immensely below what would be charged if each item of trouble were charged for as in a bill of costs. To see this clearly we have but to take an example. If the owner of an estate worth £800 a year wish to borrow on that estate £1,000, he has, according to the scale, to pay £47 15*s.*, but if instead of borrowing £1,000 he borrows £10,000, he has to pay £218 15*s.*, or five times as much, although the Title to be investigated and the work thrown on the solicitors is exactly the same in the one case as in the other, and if the solicitors be amply remunerated by the payment of £43 in the first case, they must receive five times too much in getting £218 for similar work in the second. It follows, therefore, if the scale represents an average, or if it be at all founded on that principle that the charge for a small, say £500, transaction would be, under a fair bill of costs, not 5 per cent., but more probably 10 or 15 per cent.

(*a*) Ap. p. 116, No. 2032–33.

This scale then appears to me to disclose the enormous amount of professional labour, skill, and responsibility attendant on any transaction connected with land, in a way which renders further comment unnecessary, and a system which entails all this can scarcely be so near perfection as it is stated to be by Mr. Read (*b*). Yet the fault to be found with this scale, according to the same authority, Mr. Read (*c*), is that it is too low—so low that many solicitors, he himself, the President of the Society, amongst the number, would scarcely be willing to accept it—although it is higher, as regards small transactions, than the scale adopted in England, where no system of Registry of Deeds is in existence; and where, at least, the responsibility of solicitors engaged in these transactions is much greater. Indeed, Mr. Read frankly admitted (*d*) that the charges for loans, according to the tariff in ordinary bills of costs, are so high that in small transactions they are practically prohibitive, and would deter most people from borrowing small sums at all. The adoption of the scale above alluded to, taken in connexion with Mr. Read's explanation (*e*) of its comparative moderation, most clearly demonstrates the difficulties and dangers inherent in the present system; and if we contrast this with the trifling expense attendant on similar transactions in countries where a Record of Title exists, at least a very strong *primâ facie* case appears to me to be made out for a change. That the Record of Title might make transfers and dealings in land easy and frequent has been actually urged as an objection against it by one of the professional gentlemen (*f*) who sent in answers to our queries. He says:—"I do not think it would be desirable that land should be transferred from hand to hand like stocks and shares. The result would be the growth of that most pernicious class—the land jobbers;" and, according to this gentleman's view, to check the growth of this most pernicious class, a heavy professional tax on all dealings with real property is desirable.

(*b*) Ap. p. 13, ans (2*a*).

(*c*) Ap. pp. 117, 118, No. 2070–2073.

(*d*) Ap. p. 116, No. 2017.

(*e*) Ap. p. 116, No. 2027.

(*f*) W. J. Cooper, Ap. p. 10, ans. (1*b*.)

In contrast to this view I cannot do better than quote the words of the Northern

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Law Society, the members of which appear to me to be, on this subject, far in advance of their professional brethren elsewhere. They say (*a*) :—

(*a*) Ap. p. 15, ans. (1*b*).

"The advantages of economical conveyancing to be secured by a registration of "title would make it generally preferable to the existing system. It would relieve "practitioners of much difficulty, get rid of embarrassments which are now met with "by the appearing of effete and inoperative acts, facilitate the transfer of land and "interests issuing out of land, and give confidence and security to purchasers. The "Record of Title Act has been little taken advantage of, and, apparently, because it "did not make the recording obligatory and universal; and a practice which is merely "optional is seldom adopted by practitioners and the public. Its being (although "necessarily) a separate office or department has also militated against the practical "adoption of the system. The Committee would recommend the carrying on of the "system of record and registry, if both are to be retained in one consolidated "registry."

Whilst joining in the recommendation that the Act should be made compulsory, so far as all estates sold in the Court are concerned, I am not in favour of extending the compulsion further. The great difference between the state of things in England and in Ireland lies in this, that in England the real difficulty in the way of adopting any system of Registration or Record of Title is the initial difficulty of starting with a perfectly clear and indefeasible Title, and the objections to anything like compulsion in securing this are many and obvious. In most cases the expense would be very serious, and it would be an immediate expense incurred for perhaps very remote benefits. Present owners could not be expected voluntarily to incur such expense, and to compel them to do so would be a very doubtful proceeding. There are many estates held by Titles which are very good until they are examined into, but an examination of which might ruin the present holders, and few sensible men would voluntarily incur the risk of such examination. I do not, therefore, propose that every estate in Ireland should be recorded, and that for this purpose a Declaration of Title should be procured. I believe this would not be submitted to without a great outcry; that it would cause great inconvenience and expense, and that the injuries that would arise from it would far more than outweigh its advantages. In the Report this is alluded to as if it were one of the special expenses attendant on the Record of Title Act. It is mentioned that "even in point of expense it has no advantages over the old system," and as a proof of this the case of the Duke of Leinster is quoted, who, we were told by Mr. Littledale (*b*), was deterred from placing his estates on the Record in consequence of the expenses attendant on his passing them through the Court. The quotation of this case, I think, was scarcely fair, inasmuch as the expenses in originally clearing the Title ought not to be set down as expenses of the Record of Title, and especially in this case, where the chief expense referred to and complained of by the witness was stamp duty. But however this may be, I do not venture to suggest that any proprietor should be compelled to obtain a clear or indefeasible Title, but merely that when a clear Title is obtained it ought to be submitted to a system that would keep it clear.

(*b*) Ap. p. 77, No. 1129.

As the Record of Title system, carried out in this way, would apply only to estates which had been passed through the Landed Estates Court, or the Court which now holds its place, a system of Registry of Deeds, or some other system will also have to be carried on. With regard to the desirability of preserving the Registry of Deeds, and with regard to the amendments suggested in the mode of carrying it on, I agree in most points with the Report. I believe that a good system of Registry of Deeds not alone is of advantage in itself, but that it is a great help towards a complete Registry or Record of Title, and as the recommendations in the Report are calculated to make the Registry of Deeds much more perfect than heretofore, I concur in most of them. There are, however, a few from which I have also to dissent.

I concur in the recommendation that the Ordnance Survey townland names should be used as the basis of registration, but I am not quite clear that the best mode of securing this without causing great inconvenience is the one recommended in the Report, and instead of the sort of provisional registration and endorsement of a certificate on the instrument recommended in the Report, I am inclined to think that the imposition of very considerably increased and additional fees on all instruments not complying with the required conditions would be sufficient in the course of a short time to secure all that is desired.

Report, p. xxxi.

The next recommendation with which I cannot concur is the one to the effect, "That an instrument shall be entered on the Names and Lands Indexes only as the act of the persons whose execution shall have been proved by the Affidavit of Perfection." I believe the adoption of this course would in many cases cause the greatest trouble and expense; it would, in the words of the Report, "produce delay, and might render several

Affidavits of Perfection necessary." I believe it to be wholly unsupported by the evidence, and I am not sure that a single witness outside of the Deeds Office recommended it. No cases of hardship, or injustice, or wrong arising out of the present system were brought before us, and although I quite admit that the change which is recommended would make the Registry more perfect, and that, theoretically, it is undoubtedly right, yet, as it would increase the legal expenses without, to my mind, securing any corresponding advantage, and as it has not been recommended by any of the professional men conversant with the Registry system, I am unable to concur in it. It seems to me that this recommendation, as well as several others, is made with the view of rendering the Registry of Deeds, as far as possible, a Registry of Title. The original and primary idea of a Registry of Deeds was to give notice that Deeds had been executed, without giving any information as to the extent or effect of those Deeds. Registration gave no validity to the Deed if it was not otherwise valid; it merely put persons interested on their guard, and the Deed itself had to be resorted to in order to ascertain its effect. Being myself in favour of a complete Registry of Title wherever it can be accomplished, I am not averse to any alteration in the system of Registration of Deeds, which will approach this, provided it can be accomplished without much inconvenience and expense, but whilst I consider that temporary inconvenience and expense may very fairly be submitted to in order to secure a real and thorough Record of Title, I do not think this ought to be imposed merely for the purpose of improving the Registry in a form which would not in any way dispense with the necessity of going behind the Record and examining the Deeds themselves. Moreover, I entertain very considerable doubts as to the practical utility of Affidavits of Perfection at all, and I am certainly not inclined to recommend their extension.

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With regard to the office indices and books, I agree generally in the recommendations, excepting that I think it would be practicable to print the current series as well as the consolidated one. I do not believe that this would be difficult, troublesome, or unsafe, and if not, it would be as desirable as the printing of the consolidated one. Mr. Dillon has designed an instrument by which, I believe, the daily printing in book form of the current index can be safely and expeditiously carried on. This mode of printing the daily entries he lately submitted to the Committee of the House of Commons on "Land Titles and Transfer." It was favourably noticed by them. He also offered to submit it to our Commission. It was not inquired into by us, but as the printing of both indices, if practicable and consistent with safety, would be desirable, I think this invention of Mr. Dillon is well worthy of consideration and trial.

I do not concur either in altogether condemning what is termed Colonel Leach's, or, in reality, Mr. Dillon's other proposal relative to the placing of the abstract in connexion with the surnames in the index books This proposal, was originally made, as appears by the Report of our Secretary, Mr. Lane (*a*), by Mr. Dillon, and taken up by Colonel Leach. In its first form, and as it appears in Colonel Leach's pamphlet, it is no doubt open to the objection, urged with such force by Mr. Dwyer, that the grantors' names were not placed in alphabetical order, and that this was likely to cause more confusion, difficulty, and even danger than the omission of the abstract, but in the improved and modified form now suggested by Mr. Dillon, this difficulty is got over, and the names of the grantors appear in alphabetical order. I believe the adoption of this course, combined with printing, would lead to a great saving of time, and inasmuch as we have heard great complaints from several of the professional witnesses as to the delays consequent on the present system, I am not able to concur in the opinion that that system is "neither tedious nor difficult."

(*a*) His Report, pp. 113-114.

I quite concur in the recommendations in favour of Mr. Dillon's suggestion, also adopted by Colonel Leach, relative to the formation of the Lands Index and the copying of the abstracts by photography.

As the arrears in the office work have been very fully reported on in former inquiries, especially in the able Report of our Secretary, and as they have been set forth in several parliamentary returns, we have not considered it necessary to go into any minute examination of them, but there can be no difference of opinion as to the desirability of having them worked off, and especially of having the Index of Names from 1800 to 1832 completed, as recommended in the Report, and for this purpose the use of printing appears to me to be eminently desirable, as none of the difficulties suggested in regard to the current work can arise in connexion with these arrears.

With respect to Mr. Dillon's special system of registry by means of a mechanical index, I am unable to concur in the general disapproval of it expressed in the Report, whilst, at the same time, I am not prepared, without its receiving a long and practical trial to recommend its adoption in substitution for the present system of book indices. I rather concur in the opinion originally expressed by the Commissioners that nothing

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short of a roll, or rolls, containing all the entries for a period of at least five years, would enable us to arrive at a satisfactory conclusion on the point, and as this test has not been applied I am unable to condemn the proposal. In many particulars the grounds on which it has been condemned seem to me to be founded on misconceptions, and as Mr. Dillon's evidence does not appear in our proceedings, and as he was not examined on some of the points, I feel bound to notice a few of these misconceptions. For instance, it is urged that his system would necessitate working through the night, although this was disavowed by Mr. Dillon, even when proposing to have the entries fully worked up and ready for use every morning the moment the office opened, and although it is obvious that if the index books were allowed to be one day in arrear, as they are now, no necessity for night work of any description could arise. Again, the length of his proposed band and the difficulties which would arise from the demand for simultaneous searches, unless the machines were very considerably multiplied, are evidently difficulties not inherent in the system, as the division of the band into alphabetical sections would be in no way inconsistent with its principle, and although it might not be necessary to have a separate band and machine for each letter of the alphabet, yet the alphabet might be so divided as to render the band of such a length that it could be easily and safely worked, and facility given for conducting simultaneous searches.

Again, I cannot see the danger which is apprehended of interpolations or exclusions from the index in consequence of cutting the band to insert new names, as Mr. Dillon has provided means by which no name could be taken off the index, and no name inserted without attention being at once directed to it. Having examined this proposal carefully, I feel bound to say that it seems to me it would be just as difficult to interpolate or abstract an entry without detection under his scheme as it would be to abstract a leaf out of a bound book. There are several other minor particulars in the description of Mr. Dillon's index in which I cannot concur, but I do not consider it necessary to allude to them, as I am quite alive to the feeling which exists in favour of books in preference to any mechanical contrivance, and as I am not prepared to recommend, without preparatory trial, the substitution of any such contrivance for a system, which, on the whole, has worked well, and which by the adoption of the amendments above alluded to, can be greatly improved.

The only other point on which I feel bound to make an observation is on the last recommendation relative to the staff in the Registry Office. It seems to me that in the present Report we have dealt with every subject submitted to us, unless, perhaps, it be the re-organization or constitution of the different offices, and unless this be a subject which requires further investigation and a special report, I think our labours might very well terminate with some such general recommendation as the one I now allude to. Under such circumstances, and if this were our final report, I would most cordially join in it. I most gladly join in referring to the testimony given to us as to the general efficiency and deserving character of the official staff of the Registry Office, and I do not believe it desirable that the office should be kept undermanned, or deserving public servants kept in a state of uncertainty, with all promotions stopped; but if the Commission is to be prolonged for the special and sole purpose of inquiring into the sufficiency and position of the official staffs of the different Registry Offices, with a view, perhaps, to amalgamation and other changes, it does seem to me rather premature to adopt the recommendation with which the Report concludes. I am rather inclined to the belief that our inquiry might now safely terminate. We have made recommendations which, if adopted, must most seriously affect the official staff of the different offices, and until a decision be arrived at as to the adoption or rejection of these recommendations, I do not know that any very useful inquiry can take place in connexion with the administration of these offices. I would, therefore, rather join with the concluding recommendations of the Report, coupling it with a further one, that we be relieved from making further inquiry until a decision be arrived at on the points with which the Report deals; but if our investigation is to be continued, and our opinions given on the very question of official administration, and if it were right at any time to wait for that opinion, the reason for waiting exists now as strongly as ever.

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APPENDIX.

QUESTIONS sent to several MEMBERS of the LEGAL PROFESSIONS and LEGAL SOCIETIES, with the ANSWERS received thereto.

QUESTIONS.

1. (*a*) What is your opinion as to the advantages or disadvantages of the existing system of the Registry of Deeds? (*b*) What do you think of its advantages or disadvantages as compared with a Registry of Title?

2. (*a*) What is your opinion as to the merits, demerits and practical working of the Record of Title? (*b*) Are you in favour of its abolition? (*c*) If so, would you remit the Recorded Titles to the Registry of Deeds, or transfer them to a new Registry of Title, embodying the system introduced into England by Lord Cairns' Act (38 and 39 Vic., c. 87), or propose any and what other system?

3. (*a*) Are you in favour of the exclusion from the Registry of instruments not affecting lands? (*b*) Would you admit to the Registry instruments which affect lands, but which omit the Denominations, County and Barony? (*c*) If such instruments are permitted to be registered, should they be registered (as at present) on a separate Index as "General Acts," or should information as to the specific lands affected be supplied for the purposes of registration? (*d*) By whom should such information be supplied, within what time, and in what manner, and should it be in any way, and how verified?

4. (*a*) What do you consider the best means of preventing the number of aliases and sub-denominations by which the Lands Index is now incumbered? (*b*) Are you in favour of adopting the Ordnance denominations as the basis of Registration, either by providing that the Deed Memorial or Abstract shall specify the names of the Ordnance denominations in which the lands comprised in the deed are situated, or in any and what other way? (*c*) Do any practical difficulties occur to you in adopting this proposal if it was provided that the names or delineations of any Townlands on that survey should not affect the right of parties as to boundaries? (*d*) If so, can you offer any suggestions as to their removal, and if so, please to state them?

5. Do you approve of the abolition of Memorials, and the substitution of short Abstracts in a prescribed form, restricted to statutory requirements sufficient to give notice of the existence of an act affecting the lands?

6. Do you think it would be useful to maintain Memorials, as a means of deducing and evidencing title, or for any other purpose?

7. (*a*) In the event of the abolition of the present system of Memorials, and the substitution of a uniform statutory form of Memorial or Abstract, what provision (if any) would you make for the preservation of evidence of the contents of instruments by means of the Registry Office? (*b*) Are you in favour of, or for any and what reason, opposed to the registration of a duplicate or attested copy alone or in addition to the Memorial or Abstract? (*c*) If in favour of registering a duplicate would you make the registration of such duplicate or copy compulsory or optional, as regards all deeds or any particular classes of them

8. (*a*) Do you consider that the present Stamp duties and charges in the Registry of Deeds Office require modification? (*b*) Do you approve of the adoption of a higher and lower scale of Stamp duties and Office charges, and if so, how regulated?

9. Would it in your opinion be advisable to limit a period from the execution of the deed, or from the death of the Grantor, or from any other time within which the right to register should be confined?

10. (*a*) Do you consider that Affidavits of perfection should continue to be required? (*b*) Would it be desirable to allow Affidavits of perfection to be made by persons capable of proving the handwriting of the parties to the instruments?

11. Can you offer any other suggestions as to the improvement of the existing system of the Registry of Deeds?

12. (*a*) If any system of Registry of Title is maintained in Ireland, do you recommend the establishment of Local Registries for any and what estates or lands? (*b*) If you think Local Registries should be established how do you propose that they should be worked?

13. (*a*) Do you approve of the present system of Judgment Mortgages? (*b*) Do you recommend the adoption in Ireland of the existing English system, under which the recovery of a Judgment is merely a step towards the immediate realization of the creditor's demand against his debtors' lands?—(23 and 24 Vic. c. 38, 27 and 28 Vic. c. 112).

14. (*a*) Do you approve of the provisions of the statute 13 and 14 Vic., c. 72 (which never came into operation) in relation to the registration of wills, intestacies, equitable mortgages, and liens? (*b*) Can you offer any suggestions as to the improvement of those provisions?

15. Do you approve of its provisions as to notice of unregistered instruments, or of any alterations in the law of notice of unregistered instruments?

16. Are you in favour of the Consolidation into a single Office of all the existing registries which have now to be searched by persons dealing with land?

17. In the event of the Consolidation of the Registry of Judgments with the Registry of Deeds, how do you propose to deal with the old judgments which now require periodical re-registration?

ANSWERS.

Answers of EDWARD BEYTAGH, Esq., Q.C.

1. (*a*). I think the present Registry of Deeds, having worked well for 170 years, ought not to be disturbed. It is familiar to the professions, and has gained the confidence of the public. I believe practical men desire no material change, although some of the suggested improvements in details, such as Mr. Dillon's, may prove valuable when investigated. (*b*.) I think the functions of a Registry of Deeds and of a Registry of Titles are quite distinct, and that no comparison can be instituted between them, with any useful result.

2. (*a*). The Record of Title has proved a failure As a rule purchasers give the requisite notice to keep their estates off the Record, and this is done advisedly, owing to the not unnatural opposition of the solicitors to the system. (*b*.) I am not in favour of its abolition, it may grow into greater favour in course of time. Lord Cairns' Act aims at a registry of approved titles only, involving an investigation of them, and at the will of the Registrar a judicial decision on their validity. (Sec. 74.) The expense alone of this would keep small estates entirely off the Register; and in this country any one having a good title, and who thinks it worth his while, can have it, not merely approved, but made indefeasible, by a Land Court Declaration of Title. Again, there are, and there must always be, large quantities of land here, held under titles which would inevitably be rejected from a Register of approved titles, but which, in time, will, or may, become perfectly valid. Such land will be dealt with whilst in its transition state, by way of settlement, mortgage, and the like, and the habits of the people require a Registry of Deeds to record such transactions. In my opinion, therefore, a Registry of Titles, taking Lord Cairns' Act as a concrete instance of such a system, would prove a failure in Ireland, as I understand it has practically proved to be in England, up to the present at all events.

3 (*a*). Yes. (*b*.) Yes, except in the case of a covenant to settle, or otherwise convey, lands afterwards acquired, but in which the grantor has no interest at the date of the deed.

4. (*b*). I think this scheme impracticable It was a feature in the Act 13 & 14 Vic., chap. 72, and I believe it was received with dismay, and was one principal reason why that Act was abandoned.

5. No. **6.** Yes. **9.** Yes, but with power to a Court or Judge to extend the time, on a proper case being made for it.

10. (*a*). Yes. (*b*.) Certainly not.

12. (*a*). I think Local Registries unnecessary and objectionable.

13. (*a*). I disapprove altogether of Judgment Mortgages, on the present, or any other system. (*b*). Yes, I think the present English system should be adopted here in this respect.

14. (*a*). I approve of the principle of these enactments.

15. I would affirm by legislation, the doctrine, that constructive notice shall not affect a registered deed; and I would extend that doctrine to what is called imputed notice; but I am not disposed to go further.

16. Yes. **17.** I would continue the old system as to such judgments.

Answers of SAMUEL FREDERICK ADAIR, Esq., Solicitor, Dublin.

1. Slightly improved (as I think it might be) the existing Registry of Deeds appears to possess great advantages, and to work satisfactorily, and the Registry of Title quite the reverse. An estate held under a Recorded Title appears, and has always appeared to me so objectionable, that I would be surprised at any one understanding its effect resting satisfied therewith; it is the only description of immovable property that a Proprietor could be legally dispossessed of, and that without redress or compensation, either by forgery or the fraud or mistake of an Officer, and I think the sooner the Office is abolished the better, and a termination put to the absurd obligation imposed on purchasers of property in the Landed Estates Court to certify against having their title there registered.

2. (*a*) and (*b*) of this Query is answered above.

(*c*). Having more than one Office for registering Deeds affecting landed property appears to me calculated only to incumber the dealing with property, and I would compel every owner who has been so unfortunate as to have his title depending on the Record of Title, to now have it registered in that one office. The Act of 38 & 39 Victoria, c. 87, is too limited in its character to be applicable to one-half the property registered in Ireland, and therefore an Office such as is by that Act proposed would not answer in Ireland.

3. I never was fortunate enough to find anyone able to tell me any benefit resulting to anyone other than to increase professional emoluments from registering Deeds not affecting land or which omitted the names of lands, whereas on examining the results of searches such registrations create much needless embarrassment, which should not be permitted. I think it objectionable to allow a class of deeds to be registered, the effect of which is solely to increase professional emoluments, and create embarrassment in dealing with the client's property.

4. The embarrassment and absurdity as constantly occur of describing in a Deed a number of obsolete, useless *abuttals* should, as far as possible, be prevented, but to confine the description of property entirely to that on the Ordnance sheet would not answer. It would require much thoughtful consideration before I could venture to suggest the best course to take to satisfactorily effect the object desired.

5. I would suggest that every deed should be registered on a concise Index form, embracing the date, parties, lands, and where situate, and the character of the Deed, whether conveyance, settlement, mortgage, lease, &c., and stating whether or not an abstract of the Deed was or was not lodged, to which certificate should be affixed the date and number of registration, being an exact transcript of what would be shown on the result of a registry search. Separately or attached to such certificate of registration I would allow the party registering a Deed, if he thought fit to have it fully recorded, to affix to the above certificate an abstract of the Deed, as concise, but still as full as is required for titles lodged in the Landed Estates Court.

6. Memorials are often found materially to assist in deducing title, and if framed, as suggested above, much assistance in deducing title would be rendered in cases where deeds were lost and not forthcoming.

7. I have answered this, leaving it, in fact, optional with the party registering to satisfactorily register the contents of every deed. To fully register long conveyances or settlements, and all covenants therein would needlessly incumber the registry.

8. Charges at present for Registrations and for Searches appear to be not unreasonable, but a Search on names should be made sufficient, as in practice it is found to be; no general act which did not affect lands searched against should, as of necessity, appear on a Search. I am not sufficiently acquainted with the extent to which the Registry Office is self-supporting to give a more extended opinion on this query.

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9. Where deeds only affect lands from the Registration, I can see no reason for limiting the period for their Registration, whereas, by so doing, great injustice and inconvenience would often arise; it often occurs that no necessity appears upon the execution of a Deed to register it, but which subsequently becomes indispensable.

10. It does appear to me desirable that the execution by parties of Deeds to be registered should be satisfactorily verified, but the means of verification I would make as extensive as possible, consistent with prudence.

11. This query requires much consideration, which the officials of the Registry Office should be most competent to give an opinion on.

12. One Registry Office for registering all acts affecting lands appears to me more desirable than any multiplication thereof. I cannot see how Local Registries for acts affecting land would work, multiplying Offices only adds to expense and complication. I would require the Registration of trees planted to be in the Registry of Deeds Office.

13. I would put an end to all Judgment Mortgages; a simple Mortgage is less expensive.

14, 15. It is so long since I read and thought this Act objectionable and unworkable, that I now forgot its exact provisions.

16. Certainly.

17. I would transfer the present Judgment Office to, or graft it on, the Registry of Deeds Office, and authorize parties furnishing Requisitions for Searches to ask for such Searches for Judgments as they required; instead of a Crown Bond or Recognizance in future attaching on all property possessed by an obligor, I would require to be specified the particulars of the lands intended to be affected thereby.

Answers of F. NOLAN, Esq., Barrister.

2. (*a*) There are two matters which should be mentioned. In the first place a fund should be provided which would form an indemnity fund against possible mistakes in the Office. At present if a mistake occurs in the Office there is no remedy in many cases but an Act of Parliament. The Stamp Duties charged for the sale of estates in the Landed Estates Court would be a proper source from which to derive such a fund. The system is borrowed from Australia, and I am informed there is such a fund there. Secondly, a duplicate entry ought to be made of every Deed and entry Recorded in some book to be kept in some perfectly safe place, so that if one book was destroyed, by fire or otherwise, the duplicate would remain. (*b*) I am not in favour of its abolition, on the contrary, I consider that every estate purchased through the Landed Estates Court should necessarily be recorded.

3. (*a*) Yes. (*b* and *c*) I would allow such instruments to be registered, either as at present, or against any specific lands, when necessary information for such purpose was supplied. (*d*) By affidavit made by a person acquainted with lands.

5. Yes.

6. No.

7. (*a*) At the option of the persons interested I would allow the original Deed or a duplicate, or a copy of a Deed to be lodged in the Registry Office. It should not be compulsory to lodge either Deed or copy. The copy, certified to be such by head of office, should be received in all Courts as secondary evidence. Where the original was lodged, a certified copy should be admitted as primary evidence in all cases where a proper notice of the intention to use it had been served, as is now done with respect to Wills, and no counter notice served to produce the original. The Deed or copy so lodged should be liable to be inspected only by parties to Deeds, or their representatives. (*b*.) Answered in (*a*.) (*c*.) Optional. The requiring copies to be lodged in all cases would increase the expense too much.

8. (*a*) Yes. (*b*.) I would have a very low scale for Leases, and for all Deeds affecting lands valued under £50 a year.

9. There should be a fixed limit. The present limit, viz.:—The life of an attesting witness is most inconvenient. I would suggest five years. There should be no limit if suggestion (5) is carried out.

10. (*a*.) Yes. (*b*.) Yes, but only by persons belonging to certain classes, such as Solicitors, or Managers of Banks, and Commissioners for taking Affidavits.

11. The present office should be transferred to the neighbourhood of the Four Courts. Its existence in its present place is most inconvenient, and causes additional expense.

12. I do not think Local Registries would work satisfactorily in Ireland. They would be worse than useless unless under the management of skilled Officials who would have to receive large salaries.

13. (*a*.) The present system should be amended (1) by abolishing the absurd particulars at present required in the Affidavit to register; (2) The registering of the Affidavit should have the same effect as a deed executed by debtor, at the period of registration conveying all interest in lands by debtor to creditor; (3) a certified copy of Affidavit, with Certificate at foot of it, of Registration should be sufficient proof of Registration of Judgment for all purposes. No copy of the Judgment should be required to be produced.

15. I am in favour of giving priority to registered instruments over all unregistered, whether there is notice or not, with the exception of all Leases under Irish Land Acts, and for the present instruments dealing with lands whose value is under £50 a year. If such a suggestion was carried out, the facilities for registering instruments should be much increased. The reason that I except instruments relating to land valued under £50 a year is, that if a new system of this kind was introduced, a long time would elapse before the peasantry would understand it. It seems to me that to prevent fraud any person who made an Affidavit that he had an unregistered instrument, should be allowed to enter a *caveat* which would have in law the effect of preventing any instrument being registered without an order of a Judge. This would provide for the case of an unregistered instrument which, at the moment, it might be impossible to produce.

16. Yes, all should be consolidated into an Office in the neighbourhood of Four Courts.

17. They should be all registered as Judgment Mortgages within five years. The Affidavit to register them should, by a special provision, be allowed to be made by any person in any way interested in the Judgment. The time to so register Judgments should be extended in any case in which a minor or lunatic was interested. Any person, however, appointed by minor as his guardian for such purpose, might be allowed at once to make Affidavit on his behalf.

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Answers of M. C. BENTLEY, Esq., Solicitor, Dublin.

3. (*a*). I am not in favour of the exclusion from the Registry of Instruments not affecting lands, but think it desirable such should be left to the option of the parties interested. Numerous instances occur where much injury and inconvenience ensue by the want of such Registry, particularly in the case of a Marriage Settlement or other Trust Deed, not being forthcoming, and thus parties interested being kept in ignorance of the Trusts, probably after the loss of the original instrument. (*b*). I would admit to the Registry instruments affecting lands, but which omit the Denominations, County, and Barony, but think it more desirable they would be named.

4. (*b*). I would adopt the Ordnance denominations as the basis of Registration, by providing that the Deed, Memorial, or Abstract shall specify the names of the Ordnance denominations in which the lands comprised in the Deed are situated.

5. I think the Memorials should be quite as full as they are at present, and ought to be preserved as they are, and not abolished. I would suggest that parties should have the option of lodging for Registry complete copies of any Deed, as is the practice in the Land Court, in lieu of Memorial.

6. I do think it useful to maintain Memorials as a means of deducing and evidencing Title, and in case of loss of Deeds.

9. I think the time for registering a Deed should be unlimited.

10. (*a*). I think affidavits of perfection should still be required, there would seem to be scarcely any other method of proving the genuineness of the Deed presented for Registry.

11. I am of opinion that many obvious improvements might be effected, for instance, in the size of the searching room of the Registry of Deeds, which is at present so inconveniently small and confined, and also in the number of assistants for giving out the Books, and I would suggest that the names in all the Books should all be arranged in dictionary order, as is the case at present in some of the Books only: such would largely conduce to economy of time and labour.

12. I would not approve at all of Local Registries, or of changing the present central system. I think the central system conduces to economy of time and money.

13. (*b*). I think it would be desirable to adopt any system which would facilitate a Judgment Creditor in promptly realizing his demand against his Debtor's Lands, and by some method more simple than the present mode of Affidavit, which requires so much repetition. I am not conversant with the Act referred to in the question.

16. I am not in favour of consolidating the existing Registries, as I believe it would lead to complications

17. I think the requirement of periodical re-registration of old Judgments should be preserved.

I do not wish to hamper my replies with too many remarks, and have, therefore, answered the queries briefly.

Answers of JOHN ORPIN, Esq., Solicitor, Dublin.

1. (*a*). I am in favour of the existing Registry of Deeds Office. (*b*). I do not see any good reason for displacing it by a Registry of Title.

2. (*a*). The practical working of the Record of Title appears to me to be *nil*, owing to the general opinion of the superiority of the existing Registry of Deeds. (*b*). I am in favour of its abolition. (*c*). And would remit the Recorded Titles to the Registry of Deeds.

3. (*a*). I am in favour of such exclusion. (*b*). I would not admit such Instruments to the Registry.

4. (*a*). This evil has considerably diminished, and is diminishing daily. I do not see any means of preventing the adoption of sub-denominations, but (*c*) if the Ordnance names were adopted as the basis of Registration (which I would consider very desirable) the occasional addition of a sub-denomination, as part of an Ordnance Denomination, would not much incumber the Registry.

9. I would not limit the period.

10. (*a*). I consider they should be required. (*b*). I do not think such Affidavits should be accepted.

12. (*a*). If the present system of Registry be maintained I do not see any advantage to be derived from Local Registries, but rather the contrary.

13. (*a*). No.

16. Yes.

17. I assume that these old Judgments are dying out, and as I do not see how the Registry of Judgments Office can be abolished, I would leave the old Judgments there

Answers of GEORGE BOLTON, Esq., Solicitor, Dublin.

1. (*a*). In my opinion the existing system of Registry of Deeds is very good, and far superior to a Registry of Title

2. (*a*). I would abolish the Record of Title, and remit the Recorded Titles to the Registry of Deeds

3. (*a*). I would register any document, but I would give it no force against lands not specified in it. I would leave it to the party registering to supply the information verified as at present.

4. (*a*). The Ordnance denominations might and should be adopted, but as mistakes would probably occur until the profession was accustomed to the change, machinery for correcting them should be provided.

5. I would highly approve of a statutable skeleton form of Memorial, but the more information it gave the better. The value of Memorials as secondary evidence cannot be over-estimated.

6. I decidedly do.

7. The statutable form of Memorial I would suggest would contain all that is now generally inserted, omitting formal words, but I would much prefer a full copy or duplicate being lodged and referred to by a very short Memorial.

8. I would be in favour of an *ad valorem* scale of fees regulated on the same principle as the Stamp Duty.

9. No.

10. I think Affidavits should be required, otherwise Deeds might be put on the Registry that were never executed to embarrass parties. I would be satisfied with an Affidavit to handwriting.

11. None except what is above referred to, but in my opinion the profession and public have strong grounds to complain of the delay, when making private searches, of getting books. There is not half enough of assistance in the Office to get books, and the space is too limited.

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12. I am not in favour of Local Registries. I think one General Registry quite sufficient and the most convenient.

13. (*a*). I see no objection to the existing system.

14 (*a*). I have never considered this statute and can give no opinion upon it.

16. I am.

17. I suppose the object of periodical Registration was to get rid of those that were from time to time paid off without incurring the expense of satisfying them, and as a greater number of them must now be disposed of, I would require them to be registered as Judgment Mortgages against any lands intended to be bound within some limited period, and I would dispense with any further re-registering, leaving the Judgment as against the Cognizor and Volunteers deriving under lands the same position as if the Act requiring them to be re-registered had not been passed.

Answers of SERGEANT SHERLOCK, Q.C., M.P.

1. The existing system of the Registry of Deeds possibly requires amendment in matters of detail; but on the whole it has carried out the intention of the Legislature, has been largely adopted by the Legal Profession in Ireland, and I am entirely opposed to substituting for it the system of Record of Title.

2. The Record of Title is a failure. It should be abolished, the Recorded Titles might be transferred to the Registry of Deeds, or any other depository, but I think it very objectionable to adopt the system of Lord Cairns' Act, which is in principle similar to the Record of Title system.

3 I have in my professional experience seen the advantage (in case of the loss of Deeds) in admitting to the Registry instruments not affecting lands; and the late Master of the Rolls (Mr. Smith) a Judge of great experience in real property law, was in the constant habit of directing searches in the Registry Office for memorials of lost Deeds not affecting lands, with considerable advantage to the parties engaged in litigation, who but for the Registry of Deeds might have found it impossible to establish their rights. As to the mechanical arrangements of the Office I decline to offer any suggestions as I have had no experience in these matters.

4. For the reasons stated above I cannot give any practical suggestions in answer to this question.

5. & **6.** I should be opposed to the abolition or curtailing of Memorials. Statutory restrictions will in many cases lead to miscarriages, and injustice.

7. I am unable to afford any information in reply to this question.

8. I don't profess to know the details of the Stamp duties and charges now in use in the Registry Office; but the object being to preserve for the benefit of the general public, evidence of the Title to the general property of the country, this as an Imperial Institution should be supported by Government funds, and the fees and expenses should be reduced to a minimum.

9 The absence of any limitation in the period of Registration is objectionable. I think a uniform period, one year, from the date of the Deed would be useful.

10. I should continue Affidavits of perfection with the alteration suggested.

11. No.

12. I am in favour of having one Registry Office only.

13. The legislation connected with Judgments in Ireland has been so varied and contradictory, as to create considerable injustice. The system of Judgment Mortgages was an anomoly, but any new legislation is at present unnecessary, it would cause fresh complications, create new legal difficulties, and lead to more injury than benefit to the proprietors of property in Ireland.

14. The Act 13 & 14 Vic., Chap. 72, was a most comprehensive Registration Act, containing 65 Sections, elaborately framed and deliberately abandoned. I am not disposed to revive any of the provisions of this legislative abortion.

15. No.

16 I entirely approve of consolidating in one Office all existing registries, but I am unable to suggest how Judgments requiring periodical re-registration should be practically dealt with.

Answers of JAMES LANE, Esq., Solicitor, Cork.

1 (*a*). I am in favour of the existing system of the Registry of Deeds in principle (*b*) As compared with a Registry of Title, I consider the Registry of Deeds has greatly the advantage.

2. (*a*). I am of opinion that the practical working of the Record of Title has been unsatisfactory and inconvenient. (*b*). I am in favour of its abolition. (*c*). I would remit the Recorded Titles to the Registry of Deeds, so as to confine all transactions relating to lands to the one Office.

3. (*a*). Yes, unless by Registry a benefit such as notice, priority, or otherwise, shall be obtained for the instrument registered. (*b*). Yes, because otherwise creditors may be prevented registering an instrument obtained as a security. (*c*). They should be registered as "General Acts" as at present. (*d*). It would be desirable to give the parties interested an opportunity of supplying the information required, either by affidavit or the certificate from the Ordnance Survey Office.

4 (*b*). I am in favour of adopting the Ordnance Denominations as the basis of Registration, by providing that it shall be sufficient that the Deed and Memorial shall specify the names of the Ordnance Denominations in which the lands comprised in the Deed are situated, but this should not exclude from registration any Deed or Memorial in which the lands shall not be so specified, and for this reason, that the party preparing the Deed may not have the means of obtaining the required information. As a basis of a registration the above would be found useful, and would gradually become general. (*a*) I see no practical difficulty in the proposal becoming the basis of Registration, provided it is not at first required peremptorily. It should not affect the rights of parties as to boundaries, because the Ordnance Survey as at present laid down is not legal evidence of boundary.

5. I do not.

6. I consider Memorials useful as a means of deducing title.

7. (*a*). To render Memorials more useful for the purposes suggested in No 6, I consider that in settlements, and all deeds by which lands are settled to uses in favour of any person to be born thereafter, the limitations in favour of such person or persons should be stated upon the Memorial, and all subsequent limitations up to the ultimate remainder limited by the instrument. (*b*) I am opposed to the compulsory Registration of a duplicate of a Deed, because such transactions must be considered as of a private character with which the public have nothing to do. The statutes protect the public from voluntary Deeds executed to

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the prejudice of creditors, &c. (*c*) I would allow a duplicate of any Deed to be registered instead of Memorial, it being optional, but not compulsory with any party thereto to do so.

8 (*a*). I consider the present Stamp duties and Office charges in the Registry of Deeds not unreasonable, having regard to the maintenance of the Office. (*b*) I do not approve of a higher and lower scale.

9. I would not limit the period at which a Deed may be registered. It is for the benefit of the parties to the Deed that it is registered, and they should not be limited.

10. (*a*). I do. (*b*). I do.

11. None occur to me, but to suggest that a power might be given to any person claiming or having an interest under a Deed to sign a Memorial for the purpose of registering it in the same manner as a devisee under a will is at present empowered to do.

12. (*a*). I consider one registry sufficient in Ireland.

14. (*a*). I do, so far as here stated; but not to the Registration of Deeds by lodgment of a duplicate instead of a Memorial.

15 I do.

16 I am.

Answers of GEORGE ORME MALLEY, Esq., Q.C.

1. (*a*). I presume by this question is meant a general Registry of Deeds, and by the "existing system" is intended the Irish system. The Scotch system is a general Registry of Deeds for the entire country, and the English system for the districts attached to the particular Registers of Middlesex, Yorkshire, and Kingston-upon-Hull only. In ascertaining what are the advantages of the existing system, as applied generally, I think simplicity, economy, and expedition are main and important features. The principal contents of each Deed being epitomized in the Memorial, the Registry is thus facilitated and reference expedited. If simplicity has not been sufficiently attained, the fault is with the Profession. Simple Deeds are now used in Scotland under the Conveyancing (Scotland) Act of 1874, and this is a striking proof that a well devised plan, coupled with a good system of Registry, will be accepted by the Profession. The main reasons why the short forms of Deeds provided by the 8 and 9 Vic., 119, for facilitating the conveyance of Real Property was unsuccessful in England and Ireland, was that it interfered directly with the emoluments of the Profession, was unconnected with, or rather unaccompanied by, any improved system of Registry, and was not compulsory. Were these three obstructions removed, or even lessened, I have no doubt that short Statutable forms would soon come into general use. These being easily abstracted and registered in full, would make a General Register of Deeds a perfect and complete system. As it is, I confidently assert that it is preferable to any other system of Registry as yet devised. Analysing Lord St. Leonard's objections to the system of a Registry of Deeds, I find they all amount to objections to the mode in which the system is worked, and not to the principle of the system itself. He says, ch. 21, s. 5, cl. 41, "If I might be allowed to express a general opinion on the provisions in these Acts, explained as they are by the decided cases, I should be tempted to observe they might be improved. I approve rather of the Act for Ireland." Again, "The system, however, does not work well; because it is expensive to make a long search, and almost impossible to make an effectual one." "In a few years a general Register would be destroyed by its own enormous weight." As these are the principal, I may say the only, objections raised by this eminent Jurist to the system, I think, if removed, it would stand out *facile princeps* beyond all others. In my answers to others queries it will be perceived that these objections can now be effectually removed. When we consider the manner in which this system, imperfect as it manifestly is, has answered the purposes of the public, when compared with other systems devised to supersede or supplement it, the advantages it possesses will be made more manifest. It is cheaper, because it requires no prior investigation or judicial inquiry. It is more expeditious, because it can follow immediately on the execution of the Deed, and without let or hindrance, and is calculated, if not altogether to prevent, at least to offer obstacles to the perpetration of fraud. As it is my wish to avoid all repetition of previously expressed opinions, which are within the reach of the Commissioners, such as those given in the evidence before Mr. Osborne Morgan's Committee, I abstain from borrowing or repeating the views enunciated by the competent witnesses examined before that committee on the subject of the preference that a Registry of Deeds possesses over any other. Its main disadvantages consist in the great accumulation of Evidences of Title, in the shape of repeated Settlements, Mortgages, Re-settlements, Releases, Assignments, and other dealings with Properties, accumulating, from time to time, in an old country like ours, and the difficulties thereby created in the ascertainment of the actual condition of the property at the time of search. I concur in the opinion that a Registry of Deeds is in effect a Registry of Title. The Title to the property is extracted from the Deeds evidencing it; and if these be simplified and shortened, the distinction will be narrowed proportionably. The existing system of Registering the Memorial, as the basis of the Indexes, is objectionable, for the reasons hereinafter stated.

1. (*b*) I have not the least hesitation in concurring with the almost unanimous opinion of all modern trustworthy authorities that the advantages offered by a Registry of Deeds are infinitely preferable to any that can be gained by the adoption of a Registry of Title. A voluntary Registry of Title has proved a failure in England, and should be a sufficient warning to us. A compulsory Registry of Title would be hazardous and unjust. Hazardous, because it would be disturbing, unpopular, and expensive; unjust, because it would be interfering with the exercise of the right of private individuals to manage their property as they and their advisers prefer. In tracing the history of the attempts to establish a Record of Title in England, its disadvantages as compared with a Registry of Deeds become startlingly apparent. The great Reformers, such as Lord Romilly, Lord Westbury, Lord Selborne, and Lord Cairns, did everything which great legal experience could achieve to render the system practicable, but all their efforts eventuated in failure. The three classes of Titles established by Earl Cairns' Act, viz., Absolute, Qualified, and Possessory, are all liable to such obvious objections that it appears almost unnecessary to state them. The Absolute Title is expensive and dilatory, and not desirable by those who have inherited estates for generations, or who derive from old families, through whom a time-honoured devolution has already created an Absolute Title. A Qualified Title discloses a blot which no owner would desire to have recorded. A Possessory Title confers no advantage in the present, and the argument suggested from the remote possibility of a Prescriptive Title springing out of it, is not much more advantageous than that which simple possession would confer, and is so absurd as not to require refutation.

[Here follow some observations upon certain matters, not in reply to any of the questions sent, which appeared to the Commissioners to be outside the scope of their inquiries.—R. J. L.]

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2. (*a*) My opinion as to the merits of the Record of Title agrees with that already pronounced by the Profession in Ireland. Its objection is conclusive All the Titles recorded since 1865 are contained in three small safes or boxes And not more than one out of every twenty Conveyances which have gone through the Court since the passing of the Act have been recorded At the same time I cannot say I am in favour of the abolition of the system. There are certain drawbacks on the encouragement to Solicitors to allow their Clients to record their Conveyances which are capable of easy abolition. If these were removed, and an amalgamation of the Office with the Office of the Registry of Deeds effected, I think the system would work well, if confined, as at present, to sales in the Court. I do not see why the system might not be continued side by side with a general Registration of Deeds.

Its demerits consist, first, in its separation from the general Register of the country, and its isolated position rendering a separate Search necessary in a distinct Department Secondly, the Act renders the Title invalid until a Memorial is registered in the Registry Office of the fact of the Title having been recorded; therefore, any dealing with the Title in the interval is also invalidated. This could be removed in effect by the amalgamation suggested Thirdly, the transfer of the estate is effected by a short note on the original filed or recorded Conveyance, and on the owner's counterpart. This is unsatisfactory and insufficient Fourthly, in dealing with the estate after being recorded, the Deeds which affect it must be all brought in and recorded, and entered in a book called the "Instruments Book." This, in the course of time, if the system be generally adopted, will create an accumulation which will form in itself a separate Registry of Deeds, and require a complicated machinery. In addition to this, the existing reference to the original Record to which each instrument belongs is very imperfect, and the Record is too voluminous Fifthly, the land Certificate omits all statement of the consideration Sixthly, there is a defect in not providing for future vested or contingent estates in remainder, as the certificate only shows the absolute estate of the present owner or the trustees as owners, and the trusts are not declared or disclosed. Seventhly, the names of the owners only are indexed, and as the estate may be in the names of trustees, and not of the beneficial owners, and as there is no Land Index, a searcher may be deceived by finding no acts Therefore there should be a Land as well as a Names Index. Eighthly, the certificate should be signed by the owner to secure protection and the prevention of fraud The certificate now gets Statutable validity by the mere entry of the Certificate by the officer. Ninthly, Recording the devolution of Title and transfer by petition and adversely is expensive, dilatory, and objectionable

I think the Record of Title could be easily amended in the foregoing and other particulars, and remitted with the greatest advantage to the Registry of Deeds under the amended system hereinafter pointed out, and the Conveyance being recorded as a full Deed, its abstract would indicate its existence to a Searcher,

3. (*a*) I am not in favour of excluding from the Registry instruments not affecting lands The objection heretofore entertained against registering such instruments applied, as I understand them, principally to the difficulty of properly recording them on the Land Index, and preparing a Statutable Memorial. If both of these processes be modified, and the latter discontinued, as hereafter suggested, the difficulty will be, to some extent, obviated, though not totally removed. If a consolidation of the Judgment, and the Registry of Bills of Sale, Wills, &c, be effected, a Registry of instruments not affecting lands specifically, will be the result. In a Deed or Will covenanting to charge, or devising after acquired lands subject to charge, or bequeathing a legacy to be charged on any future acquired lands, a Registry of the instrument would be desirable for many obvious reasons, and in such cases no particular lands could be specified at the time of Registration. I think the suggestion contained in the question a good one, that a separate Index for general Acts could easily be kept under an improved system, and the Abstracts should be recorded on names only, which would give a sufficient clue to Searchers, especially if, as hereafter suggested, a copy of the instrument in full be registered As to instruments mentioning lands, but giving no Barony or County or other situation, the defect could be supplied by the person registering on the requisition of the Registrar, requiring a marginal note stating the situation, Barony, or County, and appended to the Abstract, initialed by the Registrar, and signed by the person registering, which would indicate that the matter so appended formed no integral part of the instrument, but was affixed for information only, and this should be appended at the time or contemporaneously with the Registry of the instrument.

4. (*a*) I consider the basis of the Ordnance Survey as the best means of preventing the number of aliases and sub denominations by which the Land Index is encumbered. The Townland denominations are now, from long use, familiarized, and the ancient denominations are becoming useless I have frequently heard the Bench as well as the Bar lament the want of a Statute rendering the Ordnance Survey *prima facie* evidence, and lately in a case of Millar *v.* Little in the Court of Exchequer I heard Baron Dowse commenting on this defect in our Statute Law in strong terms, which were approved by the other members of the Court. This simple enactment would give authority to the denominations and boundaries appearing thereon, and the onus would be thrown on the disputant to show the incorrectness of either.

5. I have given the Memorial question much consideration. For a long time I was disposed to adhere to it in consequence of the strong opinion in its favour entertained by the great body of the solicitors whose experience and knowledge entitle them to the highest respect Its abolition would deprive the Profession of considerable emoluments, and this in itself is a serious objection. I think compensation should in justice be given for the preparation of the substituted Abstract, if the latter should be adopted Memorials are not reliable representations of the contents of a Deed, and do not give satisfactory information even when reliable. In many cases I think it will be found that the full Deed has been registered as a Memorial in cases of marriage settlements, &c, thus showing the want of confidence entertained by the public in their efficiency. Every lawyer is familiar with the cases in which defects in the Memorial have invalidated Registry, and the litigation and loss thereby occasioned. A short Statutable Abstract containing the names and descriptions of Grantors and Grantees, Consideration, and Names of the lands and situation would, in my opinion, suffice.

6. I do not think it would be useful or necessary to retain Memorials as a means of deducing or evidencing Title, or for any other purpose. I think, with proper appliances, and the adoption of mechanical contrivances, the registration of the full Deed and short abstract, in the manner next stated, would suffice for all their purposes. In the event of the abolition of the present system of Memorials, I think economy of space, time, and labour would be secured to an incalculable extent by the substitution of a Statutable form of Abstract and a Duplicate of the full Deed. I am confident that the permanent Record of the full Deed, taken in the form of a photographed duplicate, and transmitted by electrotyping to the cross sheet on the rollers invented by Mr Dillon, is the very best suggestion that has yet been offered for the preservation of the evidence of the contents of the Instrument The permanency of this Record, and its indestructibility, even by fire, is manifest. It is inaccessible to the Searcher or Copyist,

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while, at the same time, its contents can be rapidly and correctly ascertained, and a copy or facsimile taken with the greatest expedition. I would make such machine copy conclusive evidence of the contents of the Deed when certified by the keeper of the Records. (*b*). I am in favour of a registration of the Duplicate of the Deed in addition to the Abstract, and not the Memorial Whether the Commission determines on recommending the Abstract to be kept in books for reference, or on rollers in the machine invented by Mr. Dillon, or both, I think that it would form in itself the Index, and by a number of reference to the duplicate copy of the Deed both would form a full and complete Registry, and would be all that the public would require for searching, information, evidence, title, &c., unless a system of Recorded Searches, on a better principle than either the Scotch or Irish were introduced, for the purpose of facilitating deduction of Title through the instrumentality of the Registry. (*c*). As to making the Registration of the Duplicate compulsory or optional, I think it should be in effect compulsory, as the Registration of the Memorial is at present under the Statute, and as regards all Deeds of every kind, I see no reason whatever for excepting any, especially those dealing with land, and, in fine, I do not see what reason there is for excepting Bills of Sale, Deeds barring the entail, Judgments, Wills, and all other Deeds and Acts.

8. I have not considered this question sufficiently to enable me to offer an opinion.

9. I see no reason for limiting a period for the registration of a Deed after its execution. The loss of priority would in itself be a sufficient deterrent, and the unjust consequences of shutting out a Deed from the benefit of Registry, when a party may have inadvertently lapsed his time, is incapable of being compensated by any countervailing advantages.

10. I think a short Certificate of the Attorneys for, or the executing parties themselves to the Deed, and a Certificate of the correctness of the Abstract, the latter countersigned by the Registrar, would be be a sufficient protection if a suitable penalty, similar to that attached to forgery, were imposed by Statute, and this would dispense with affidavits of perfection. The certificate of a Master extraordinary, or a Consul, might be legalized for cases requiring or suggesting such authentication

10. (*b*). I do not think such affidavits would be required if Certificates were substituted.

11. The answer to this question is dispersed over the several answers to the other numbers, and contained in the Appendices to which I refer.

12. (*a*) I concur in the opinion expressed by many experienced professional witnesses before the several committees, that a perfect Registration of Deeds would be, in effect, a Registration of Titles. Such a Registration of Deeds, if their forms were shortened by properly-framed suitable enactments prohibiting effectual Registry where such forms were departed from, would facilitate land transfer enormously, and justify the establishment of Local Registries in the Provincial Districts elsewhere suggested Such Local Registries should be Sub Registries of the Principal Registry in Dublin, and the transmission of a duplicate of Abstract and full Deed by post to the Principal Registry could be easily, effectually, and economically accomplished

12. (*b*). I think the Clerk of the Peace would be the proper officer to work Local Registries, if ultimately they should be extended to Counties In the first instance, I think they should be confined to large Provincial Districts, and a special Officer appointed for their working When the system would become known, and if adopted and approved, it could be extended to Counties The Abstract and full Deed being registered, copies could be at once transmitted to Dublin, with the necessary fees In Scotland the country writers to the signet transmit to the Register House in Edinburgh the full Deed, and on receiving receipt and account of the fees, transmit the amount without requiring to go to Edinburgh or employ an agent there, and I understand the system works exceedingly well

13. (*a*). No one approves of the present system of Judgment Mortgages. I think the English system preferable, but if the Irish system be retained, a short abstracted form of Affidavit could easily be substituted which would answer all the purposes of the present voluminous document.

14. (*a*). I have not considered this question sufficiently to justify the expression of an opinion upon it.

15. I think the Doctrine of Notice should be abolished, except in cases of actual fraud

16. With a well regulated Register there could be no difficulty, and there would be great public and professional advantage in a consolidation of the eight or nine existing Registries

17. I think the periodical registration should be abolished, and in any new Statute the old Judgments should be put on the same footing as to Registration with future and recent Judgments

Answers of JAMES M'LEAN, Esq., Solicitor, Belfast.

1. The great advantage of the present system is the Registry of Deeds for any part of Ireland, and not for a District One of the disadvantages is that Deeds are registered on the signature of the Grantee or Lessee, although such Registry may not be a good and valid Registry

2. The Record of Title might be improved and made more popular if some of the clauses of Lord Cairns' Act, such as the Registry of possessory and qualified Titles, were made applicable. I would recommend one common Registry.

3. I would exclude all instruments from the Registry not affecting lands I would not admit any document to the Registry that did not contain the denominations, County, and Barony

4. I would adopt the Ordnance denomination as the basis of Registry—the Deed and Abstract specifying the name. At the same time I would not exclude a Deed because it also contained aliases for the purpose of a more definite description. I see no practical difficulties with respect to the remainder of the question.

5. I approve of an Abstract in a prescribed form setting out fully the lands, the term, and the rent, and giving the nature of the covenants briefly.

6. I do not!! I think the Abstract, a copy of which could be furnished when required, would suit better.

7. I would make the Abstract evidence of the contents of the Deed. I am not opposed to the Registration of a duplicate, on the contrary, I would approve of it highly but for the expense to the public. If a duplicate is to be registered I would make it compulsory; at the same time I would require the Abstract to be furnished for speedy reference.

8. It would be desirable to make the Stamp duties as low as possible, but as this is a Treasury question I do not express an opinion.

9. I would make it compulsory to register every Deed within six months, and that no Deed should be registered afterwards without an order of a Judge.

10. I consider Affidavits of Perfection should continue. I would permit Affidavits of Perfection to be made

by persons capable of proving the handwriting if the Registrar is satisfied that the evidence of the subscribing witnesses could not be obtained.

11. I would recommend the endorsement of Registry on Deeds to be by seal, so as to prevent any attempt at forgery. That every Attorney procuring a search, either common or negative, should be free from responsibility in the event of any omission by the officer.

12. I do not recommend the establishment of Local Registries.

14. I can make no suggestion.

15. I believe any instrument affecting land should be registered.

16. Yes.

17. On this question I am not prepared to give any opinion.

Answers of T. R. WRIGHT, Esq., Solicitor, Clonakilty.

1 (*a*). I think that my answers to the other questions sufficiently convey my opinions on the merits and demerits of the existing Registry of Deeds; and (*b*), of its advantages as compared with a Record of Title.

2 (*a*). I do not consider that within itself it contains any great demerits, but from the fact that the Registry of Deeds being the older record, that Titles will be always adduced therefrom, and the Record of Title being an optional and supplemental record, it is not of the public necessity or utility. A prominent demerit of the Record of Title is the necessity for a person who has obtained a recorded Declaration of Title applying from time to time to remove family charges, and from the record, while, if those charges are appointed by a Deed-poll, they are upon the Deeds Registry also. (*b*). Yes. (*c*). Yes, and would remit the Recorded Titles to the Registry of Deeds.

3 (*a*) No, for many occasions arise when it is of great public benefit that the pith of Deeds other than those affecting lands should be preserved, as, for instance, a tenant for life often assigns securities to the remainderman in return for the latter uniting in re-settling estate and enabling further charges thereon, which re-settlement read without knowledge of the assignment shows the reversioner acting in his own wrong. (*b*). Certainly; as often where a person succeeds by a death to an estate tail on lands, he requires before he or his advisers have procured the Title Deeds, &c., of the predecessor to, for instance, disentail, but I would not permit the omission of the name of County, there being so many lands of identical denominations in Ireland, such as, Ballyglass, Ballmore, Ballard, Cloon, Clough, and in those commencing in "Derry," and "Kill." (*c*). I think they should be registered if Baronies given, as "lands in," and if no barony given, that instead of a "No Barony Book," that they should appear in the first or last part of the County book, as in some of the ancient books. (*d*). I don't think such post information essential.

4 (*a*). I would retain the present names, perhaps with the addition of "known on the Ordnance Survey as." (*b*). I would not adopt the Ordnance names by themselves, as they, I believe, lead to great confusion, as in many cases the Ordnance has completely changed a well-settled name, I presume, from the difficulty English officials have in catching the Irish one. (*c*) and (*d*). On the whole I prefer the present names, cumbersome though they be.

5 I think the restriction of the Registry to a prescribed form would not be beneficial.

6 Yes.

7 (*a*). The necessity for contemplating such provision is a weighty argument against the abolition of memorials. (*b*). I am strongly in favour of a duplicate above all things. (*c*). Decidedly; and in all cases compulsory.

8. I think the present Stamp Duties might not be disturbed.

9. A time limited from the execution of Deed.

10. (*a*). Most certainly (*b*) No; for in that case the Affidavit should be "upon belief" only, and abuses would certainly arise, for the prevention of which the Registry of Deeds was instituted.

11. No.

12. (*a*) and (*b*). No.

13. (*a*). Yes. (*c*). I am not sufficiently conversant with the English practice to offer an opinion.

14. (*a*) I recommend the registration of all grants of Probate and Administration, and grants of re-seal where deceased was owner of any estate in lands; no, as to remainder of question. (*b*). No.

15. I think the existing law as to notice of unregistered instrument equitable and just.

16. Yes; strongly so.

17. By making it lawful for the Registration to be made in new Registry on production of master's certificate.

Answers of W. J. COOPER, Esq., Solicitor, Dublin

I am a practising Solicitor for fifty years, during which time I have been engaged in many transactions relating to the sale and purchase of real estates, and the lending and borrowing of money on real securities, and the settlement of real estates; I have given personal attention to details, and I have also personally made numerous searches in the Registry of Deeds Office, and I have had under my consideration from time to time the legislation which has taken place, and which has been proposed in relation to the Office, being requested so to do, I now proceed to answer the printed questions which have been sent to me by the Secretary of the Commission now sitting; it would occupy too much time to answer them fully and at length in writing, but in compliance with the request, and in the interest, as I conceive of clients, I proceed to give my opinion *quantum valeat.*

1. (*a*). In my opinion the advantages of the existing system of the Registry of Deeds in Ireland are very great, and its disadvantages small. It has completely accomplished the object for which it was established, namely, "for securing purchasers," and "preventing forgeries, and fraudulent gifts, and conveyances of land, tenements, and hereditaments." (*b*). In my opinion a system of Registration of Deeds is much preferable to, and much more feasible than one of Registration or Record of Title. The subject is too large a one to be fully discussed in a small space, but I may state that the necessity for a costly preliminary *quasi judicial* investigation of the title to be registered, the difficulty of dealing with lands and other hereditaments otherwise than by detailed descriptions unsuited to the books of a Register of Title, the complicated nature of the settlements,

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2 (*a*). I think the best test of the merits or demerits of the existing Record of Title is afforded by the fact that in the thirteen years it has been in operation only a very few titles have been recorded, although all the lands conveyed by the Landed Estates Court during that period, have by operation of the Act been placed upon it, unless the purchasers required that they should not be, and the Office has had everything in its favour (*b*). I am in favour of the abolition of the Office, and (*c*) the transfer of the Recorded Titles to the Registry of Deeds Office to be dealt with in future by Deed and Memorial.

It appears absurd to maintain two dissimilar systems concurrently, and to keep up a costly Office which the public has distinctly declined to make use of.

3. (*a*) The Registry was established for the Registry of Deeds affecting lands and other hereditaments By Statutes since passed some other Deeds have been favoured with Registry. I am in favour of excluding such Deeds as do not require Registry, but consider it a trifling matter that some persons either through ignorance or from an anxiety to record their transactions, do bring in for Registry, Deeds which do not require to be registered (*b*). I would admit to the Registry all instruments which affect lands or other hereditaments, describing them in the Memorial as they are described in the instrument, even though Denomination, County, and Barony, should be all omitted (*c*). I conceive that an instrument is registered when brought into the Office with a proper Memorial, due execution being proved and accepted by the Assistant Registrar; the vast majority of Deeds stating County and Barony, or at the least County; it seems necessary that a separate index should be kept of Deeds which do not state a County or Counties. I do not think that information as to the specific lands affected should be required to be supplied for the purposes of Registration, it would often be wholly out of the power of the party interested in effecting Registry to supply such information, and if in possession of such information he would in all probability embody it in his Deed.

4. (*a*). I am not aware that there is any practicable means of preventing the number of aliases and sub-denominations by which the land index is now encumbered, there they are, and there they must remain, but I know that they have been very largely increased by some Counsel and some Solicitors in recent years, advising that the denominations on the Ordnance Survey should be introduced into Mortgage Deeds in addition to the denominations previously contained in conveyances and family settlements, and which I hold to have been amply sufficient, the Ordnance Survey containing as separate Townlands a multitude of mere colloquial sub denominations of original Townlands or other denominations of land, such as "Ballyboes," "Gneues," &c, and I have known the expense of registration to be enormously increased in consequence, and to an extent to be a serious evil to the unfortunate owner, as all subsequent transactions became burthened with the same ill advised "parcels" (*b*) I am wholly opposed to adopting the Ordnance denominations as the basis of registration in any way whatever, I have never known it to do any good, and I have known it to do much evil. (*c*). The practical difficulties in the way are very great, as I showed many years since, and it would be a very great injustice indeed to the holders of old charges on real estate, who should be allowed to deal with those charges as they stand, that is to transfer them, to pledge them, and to settle them, in accordance with the parcels and descriptions of the original Deeds without being bound to specify, either in the new Deed, or in any other way, the names of the Ordnance denominations in which the lands comprised in the Deed are situate

5 I do not approve of, but wholly oppose the abolition of Memorials I consider that the Registration of Deeds affecting real estates in the manner provided by the original Act of Anne, is as nearly perfect a system as could be devised, and that it should not be disturbed. It has become one of the settled institutions of the country, and has worked very well indeed, and I see very grave objections to the substitution of short Abstracts in a prescribed form. If it was forced upon me I should not like to undertake to prepare a short Abstract The Memorials a most valuable document, not only as secondary evidence of the contents of the Deed in the event of its loss, but as giving information on the subject when access to the Deed cannot be easily or at all obtained, thus enabling the searcher to ascertain the nature of the Deed at the time of searching, which is often of great importance, and enabling the vendor or mortgagor in many cases to satisfy the vendee or mortgagee that certain acts found upon the search do not affect his title without the delay and expense of producing or furnishing copies of the deeds, which, in some instances, from the existence of intermediate interests, &c., it would be impossible for him to produce or furnish at any expense, for such purpose the Abstracts which have been proposed, even if carefully prepared, which they would not always be, would be almost useless, and the result of their substitution would be that many transactions would have to be broken off, which under the present system would be successfully carried out. Besides this, the verification of the execution of the Deed and Memorial by the Affidavit of one of the witnesses, at present required as a condition of registration, affords a valuable protection against fraud Some idea of the value of the Memorial may be formed from the fact that the average number of copies of Memorials supplied to the profession exceeds 1,700 a year, and the average number of Original Memorials produced in Courts of Law as secondary evidence exceeds 50 a year.

6 I think it would be useful to maintain the Memorial prescribed by the Act of Anne. Its primary object is to record the date of and parties to the Deed, its due execution, and the names and descriptions of the attesting witnesses, and the hereditaments it purports to affect, in order that purchasers and creditors may have knowledge of the existence of such a Deed, and be protected from Pocket Deeds. It should be maintained for this purpose, but it has also the advantage of assisting much in the deduction and evidencing of title, when the Deeds themselves have been lost, or cannot be found, and has produced a large saving to parties in causing Deeds of Covenant to produce to be dispensed with

7. (*a*) I hope sincerely that the present system of Memorials may not be abolished. (*b*.) I am opposed to the registration of a duplicate or attested copy, either alone or in addition to a Memorial or Abstract, it would entail considerable additional expense, in most cases for no commensurate object or advantage, and it would be unfair and unreasonable to require parties to expose their family transactions. Where it is considered advisable so to do it is quite open to parties to insert in the Memorial any special provisions of the Deed to be registered. This would not be so in an "uniform Statutory form of Memorial or Abstract."

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8. (*a.*) I consider Stamp duties a question for the Chancellor of the Exchequer, one of the means to provide Revenue, a small portion of a very large problem. During my career they have been several times altered and modified, and I would not presume to offer an opinion on the subject. As to the Office fees, formerly paid in cash, and now by the Fee Fund Stamps, they seem to me fair enough, they are I believe quite adequate for the maintenance and improvement of the Office, and therefore should certainly not be increased, if they produce more than is necessary then they should be reduced (*b*) I do not consider that a higher and lower scale, in a practical point of view, at all workable in the Office.

9. It would not in my opinion be right, fair, or advisable, to limit a period from the execution of a Deed, or from the death of the Grantor, or from any other time, within which the right to register should be confined. I have had in my own practice to register Deeds at long intervals from the date of execution, and after deaths occurring, and I know that great injustice would have followed if they could not have been so registered The case was early provided for as part of the existing system, and so long as a witness to the execution to the Deed by the Grantor survives, and can be found, the Deed may be registered on execution of a Memorial in presence of that witness by a party deriving under the Deed.

10. (*a*). I consider that Affidavits of perfection should continue to be required I have no doubt about it (*b*) I consider it would not be desirable to allow Affidavits of perfection to be made by persons capable of proving the handwriting of the parties to the instruments.

11 In my opinion the existing system of the Registry of Deeds in Ireland is a wisely planned system, having regard to the past and the actual condition of the country, and I do not see that it requires improvement, except that I think means should be granted to consolidate in Dictionary order some of the older Indexes in the same manner in which a few of them have been consolidated, and that the transcription of negative searches in continuous order in books should be abolished, as it much delays the issuing of searches when made, and very few of them are afterwards required to be copied for use, so that the work and expenses of transcription is a burden on the Office without commensurate advantage to the public, and I think that the present system of Memorials of conveyances executed by the Landed Estates Court is very objectionable, it is in fact a counterpart of the conveyance and of the schedules attached, rentals in fact They are often very lengthy, and full of ephemeral matter, tenancies from year to year, or under leases having short periods to run, and wholly outside the requirements of the Registry Act; the consequence is that the Transcript books of the office are enormously increased, the general business delayed, and no advantage that I know of resulting, except that Officers of the Landed Estates Court are saved the trouble of comparing that which is struck from type, having formerly to compare that shorter Memorial which was engrossed with a pen. I also think that additional space should be provided for searchers, and that a few additional clerks should be employed to bring to them the books called for, as at present the space is very limited, and delay is experienced in obtaining the books required, and I think that a separate room should be provided for solicitors personally engaged in making searches.

12. (*a*) Believing that a system of Registry of Title would not be found to work satisfactorily, I am opposed to the establishment of Local Registries. The same objections appear to me to apply to them as to a general registry with this addition, that there could not be provided skilled management except at a large cost, quite out of the proportion to the value of the property dealt with, which cost would have to be met either by the imposition of heavy office fees, which would not afford any relief to the owners of small estates, or out of the Consolidated Fund, which would in effect be transferring the cost of dealing with land from the individual to the State.

13 (*a*) I do not approve of the system of Judgment Mortgages I think when a Mortgage transaction is contemplated between parties, it is better to have a Deed, and when a Mortgage transaction is not contemplated that the creditor should not have the power to create a Statutable one. It is quite ridiculous to find large estates, producing many thousands per annum in Mortgage (Statutable) to some tradesman for perhaps £20 or £30, and the cost in such cases is quite as much as if the sum was a substantial one, *ad valorem* Stamp duty excluded. (*b*) I have not practical knowledge of the existing English system.

14 (*a.*) I do not approve of the statute 13 & 14 Victoria, chapter 72 (*b.*) I think it had better lie as a dead letter, or be repealed, which would be better.

16. I am not in favour of such consolidation.

17. I would leave them as they are, but if consolidation takes place then I think that the old Judgments, should stand on the same footing as an actual Mortgage to the extent of being relieved from periodical registration Those old Judgments, now subsisting, are almost invariably entered upon Bonds by *cognovit*, the parties intending the transaction to continue and bear interest payable half-yearly, the Judgment not having been entered with a view to immediate or early realization. Judgments obtained adversely are, as a rule, intended for as early realization as can be effected In any legislation both debtor and creditor should be fairly dealt with, and the advantages should not be altogether in favour of the creditor, many creditors being very dishonest, usurious, and oppressive persons

Answers of T. W. BELL, Esq., Barrister.

1. I think the existing system of the Registry of Deeds though, to some extent, carrying out the intention of the Legislature, in preventing frauds and securing purchasers and mortgagees, is defective in many respects, and among others, the following:—

(*α.*) The Memorial may, and generally does, include clauses which are not required by Statute, and which it is not the imperative duty of the Registrar to have compared with the Original. This may lead to fraud.

(*β.*) Some clauses may be inserted, even quite correctly in the Memorial, the construction of which would be altered by the context, which is omitted. In such cases if the Original be not forthcoming, and the Memorial be admitted in evidence, injurious results may follow.

(*γ.*) The Deed and Memorial after having been compared by the clerks in the Registry of Deeds Office, and marked by them are returned to the person registering for the purpose of having the Memorial stamped. While so in his possession it may be tampered with.

2. I am in favour of the abolition of the Record of Title, and would transmit the Recorded Titles and charges to the Registry of Deeds. I think such instruments affecting lands, as are registered, ought to be registered in one Office, and that the mode of registration should be uniform This would lead to simplicity, facilitate Searches, and save expense both in searching and keeping up officials I think the Record of Title Act, and Lord Cairns' Act (38 & 39 Vict., c 87), leave too much to mere Officers.

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3. I am in favour of the exclusion, from the Registry, of instruments not affecting lands. I would admit, for the purpose of preserving priority, all instruments affecting lands, even though the Denomination, Barony, and County should be omitted. But I would have such instruments registered in a separate Index, and would hold such registration to be valid for a limited period (such as six months after execution, following the analogy of the enrolment of disentailing Deeds). If these omissions should not be supplied within the period so fixed, the registration should then be no longer of any effect. The information required to supply the omission should be given or procured by the party registering, or his successors in title, and verified by Affidavit or Statutary declaration

4. To prevent *aliases* and sub-denominations appearing on the Register, I am in favour of adopting the denominations of the Ordnance Survey as the basis of Registration. But as these Denominations, &c, may not be known at all, or not accurately known, at the time it is desirable to register, I would (to preserve the priority of the instrument) permit registration in the separate Index referred to in the last reply, and make such registration subject to the same conditions as there mentioned.

5. I approve of the abolition of Memorials, and substituting in their stead printed forms with blanks to be filled up with the date of the instrument, the names of the parties, the nature of the instrument, the lands affected by it, and the names of the executing parties and attesting witnesses This would prevent any fraud being committed by inserting any clause which would either be inaccurate or mislead by the omission of the context.

7. If the party registering so wished, I would permit him to lodge an attested copy of the instrument, in addition to the printed form mentioned in the last reply, but (save in the case of a trustee) I would make him bear all the expenses attending the making and lodging of this attested copy. By lodging this copy a completely satisfactory evidence of Title would be preserved, and the rule as to costs would probably prevent the incumbering of the office with copies when they could be dispensed with, *e.g*, in the case of a simple mortgage.

9. I think it would be well to fix twelve years from the execution by the Grantor of an instrument as the period after which it could not be registered. This period would follow the analogy of the "Real Property Limitation Act, 1874."

10. I think Affidavits, or Statutory declarations, of perfection should still be required. If by reason of the death or insanity of the witnesses such Affidavit, or Declaration, could not be obtained, then I would make it necessary to have an order from a Judge of the Common Pleas Division, to be obtained by motion supported by Affidavit. I mention the Common Pleas Division, following the analogy of the practice as to the acknowledgment of Deeds by married women.

12. I am not in favour of Local Registries, but entirely in favour of concentrating all Registries affecting land in one Office, for the reasons given in my reply to the 2nd query.

13. I do not approve of the present system of Judgment Mortgages. It is too much surrounded with technicalities. I would make it as nearly as possible the same as the Registration of voluntary mortgages. To prevent oppression I would not allow a judgment to be registered as a Mortgage till after the lapse of some fixed period of time from the obtaining of the judgment, except, in the case of a judgment recovered in an action, by special leave of the judge who tried the action.

16. See my reply to the 2nd query. I would also have Disentailing Deeds enrolled in the Registry of Deeds Office.

17. I would provide that the old judgments, referred to in this query, should be registered as Mortgages within five years, or to be no longer effectual to charge land.

Answers of S. V. PEET, Esq., Barrister.

1 In my opinion the existing system of Registry of Deeds, with some modifications and improvements, is much better suited to this country than the Registry of Title founded by the 38 & 39 Vic., c. 87. The Irish Registry system is of long standing, and has become one of the permanent institutions of the country. It is practically understood by the profession, and it has very generally afforded to purchasers and creditors the protection intended. The Registry of Title is, on the contrary, too judicial in its character to become popular. I understand that it has not been extensively used in England.

2 (*a*). A similar objection occurs to me in relation to the Record of Title, which, although it has been about 16 years in operation, has made but little way either here or in England. (*b*). I am in favour of its immediate abolition. (*c*). I would remit the Recorded Titles to the Registry of Deeds, and would close the Records generally, as provided for by s. 32 of the Act.

3 (*a*). I would exclude from the Registry all instruments which do not affect land, either by way of estate, interest, or charge (*b*). I would exclude from the Registry all instruments which omit the Denominations, County and Barony, or County of a City and Parish.

5–8 I think that the mode of Registry provided by the 13 & 14 Vic., c. 72, might, with some modifications be advantageously adopted in lieu of our present system of Memorials. An Abstract of the instrument, in a tabular form, should also be lodged for facility of reference. The execution of the duplicate original documents and of the authenticity of the attested copies deposited ought, for the purpose of evidence, to be verified by Affidavit I would make the Registration of a duplicate—original or attested copy, as the case might be—compulsory in the case of all Deeds or other instruments in writing. I would, of course, leave it open to the parties to convey or charge the lands by a short Deed, which would be registered, and to declare the trusts by a Deed of even date, which need not be registered.

9 In order to limit the period for Searches, I would restrict the right to register to seven years from the death of the last Grantor.

10. (*a*). I would require Affidavits as to the execution by the parties of the Original and duplicate original instruments, and as to the authenticity of attested copies. (*b*.) I would allow the Registrar, subject to an appeal to the Land Judges, at his discretion to receive Affidavits of execution from persons not attesting witnesses.

11. I would make the Registrar's Certificate conclusive evidence of the validity of the Registry of the instrument, until same should be cancelled for fraud or mistake. The Land Judges ought to have jurisdiction over such matters.

13 (*a*) I consider that the present system of Judgment Mortgages in Ireland is radically defective, on account of the uncertainty of its operation. (*b*). The present English system, whereby judgments do not affect lands until actual seizure, I consider preferable.

ANSWERS.

16, 17. I consider that, ultimately, the Deeds and Judgments Registry Offices may properly be consolidated, but I would not recommend an immediate change. I would, however, accelerate the extinction of old judgment securities by requiring that the reserved remedies should be enforced within a given period, or otherwise expire. This would much help the fusion of the separate Offices.

Answers of WILLIAM READ, Esq., Solicitor, Dublin.

2. (*a*). I beg respectfully to confine my replies to this query, as my attention has been asked specially to the merits, demerits, and practical working of the Record of Title Act. I was one of the few Solicitors who advocated a Record of Title, and gave my humble assistance as one of the members of the Registration of Title Association (1865), being most anxious to remove the reproach then unjustly made, of making long and expensive Abstracts of Title and Conveyances, which, I consider, was not the fault of either lawyers or solicitors, but of the existing laws connected with dealings in land. The exertions of that Committee ended with the Record of Title Act, and I did believe at that time that that Act would have met the difficulty. I would refer the Commissioners to the several papers published shortly after the passing of that Act by Mr. Henry Dix Hutton, Sir Robert Torrens, and Mr. R. Denny Urlin, setting out the advantages of that measure. It is with deep regret I have now to express my belief that that measure has been a failure From my own experience in the working of that Act instead of facilities and abridgement in conveyancing, difficulties arose from many causes it is difficult to enumerate. Conveyances which were represented to be only a few lines became so many office sheets, and, in point of fact as matters now stand respecting that measure, in my opinion, and I express it with regret, it is better to abolish it altogether, and remit the Recorded Title to the Registry of Deeds. I am opposed to any other registry, as I believe the present Registry of Deeds is as near perfection as can be, if the Indexes were written up, which would no doubt entail the appointment of additional Scriveners for a few years; but, as the income of the Registry of Deeds Office pays all expenses and leaves an annual surplus, a portion of this surplus should in all justice be applied to completing these Indexes.

Having given my replies to the queries to which my attention has been particularly called, as I have the honour to be one of the Council of the Incorporated Law Society, and I am aware that Council are using their best exertions in answering the several queries, I would rather decline for the present any further answer, until after the deliberations of the Council of the Incorporated Law Society shall be issued in answer to the queries.

Answers of JOHN J. TWIGG, Esq., Q.C., and GEORGE R. PRICE, Esq., Barrister.

1. (*a*). We think that the existing system of Registry of Deeds as compared with the absence of any such system affords many advantages to the owners of lands, and of charges affecting land. (*b*). A Registry of Title would be preferable if it were possible as a practical matter, to have it; but, in the existing state of the law as to dealings with land, it appears to us that a Registry of Title is impracticable, and we do not consider it desirable that the existing powers of dealing with land should be curtailed.

2 (*a*). We think that the Record of Title has entirely failed as a working system, and (*b*), we are in favour of its abolition. (*c*). To the Registry of Deeds.

3. (*a*). Yes. (*b*). Yes. (*c*). Where no lands are specified we should approve of Registering the Instrument on an Index of "General Acts" rather than of obliging the party registering to specify the lands affected.

4 "Aliases" will be of constant recurrence in Deeds, partly from sub-division of Townlands, partly from new and modern names, but principally, we think, from careless and illegible writing; and so long as they occur in Deeds, we think that they should appear in the Memorials and in the Registry Index. We think that any attempt to substitute the Ordnance denominations in the Index for the denominations appearing in the Deeds would lead to many mistakes, and introduce new and serious difficulties in dealing with Titles, especially in cases where persons not in the actual possession of lands were dealing with their interest in them. We do not see how a remainder man, who for any reason could not obtain information from the person in possession, could accurately identify the parcels in his Deed with the Ordnance denominations. Where the parcels are long and intricate, we think mistakes would frequently occur in enumerating the corresponding denominations in the Ordnance Map. We also think that anything which would afford a cause for delaying the registration of a Deed after its execution would frequently lead to the entire omission of such registration.

5, 6, 7. The existing practice which leaves the form and contents of the Memorial very much in the discretion of the person preparing it appears to us to work tolerably well, and we are not prepared to say that a Statutory form of abstract would be any improvement on the present system.

9. We do not think that it would be advisable to limit the right, as it at present exists, of registering an instrument at any time after its execution

10 (*a*). Yes (*b*). We think it more desirable that the Affidavit should be made by an attesting witness.

12. (*a*) We think that Local Registries would be inconvenient, and in many respects objectionable.

13. (*a*). We approve of the present system of Judgment Mortgages as a simple system, and now well understood

14 (*a*) We approve of the Registration of Equitable Mortgages and liens. As to Wills and Intestacies, we think that the provisions which give priority in case of registration should be modified by requiring that the party registering should be in possession under the title registered, or, in case of a Will, should prove it in solemn form.

Answers of A. D. KENNEDY, Esq., Solicitor, Dublin.

1. (*a*) I think the advantages of the existing system of the Registry of Deeds far outweigh its disadvantages, and that the latter are quite capable of being removed without making any very radical changes. My answers to the other questions will show what I consider is needed to improve the present system. (*b*). The existing Registry of Deeds is incomparably preferable in my opinion to any Registry of Title.

2. (*a*). I never approved of the Record of Title, thinking it a dangerous and unnecessary innovation, not capable of bearing the strain which must be imposed on it by the multitudinous variety of dealings and limitations respecting landed property. The few Titles which have been recorded (some contrary to the wish of the owners of lands), show that the public do not approve of the system (*b*). I am decidedly in favour of its abolition. (*c*). I would remit the Recorded Titles to the Registry of Deeds, placing them as far as possible in the same position, as though the Deeds had originally been registered, and restoring the conveyances to their proper custodians, the owners of the lands.

ANSWERS.

3. (*a*) I would not only allow, but would encourage, the registration of all Deeds, whether affecting lands or not, and in the manner hereinafter suggested. (*b*). I would admit to the Registry, Deeds omitting Denominations, County and Barony, or indeed any Deed, no matter how prepared, but distinctly at the peril of the parties registering such informal instruments, and expressly subjecting them to the risk of having their priority interfered with by subsequent Assurances, containing all Statutable requirements, without notice This would soon put a stop to such Deeds. (*c*). Such informal instruments should be omitted from such Indexes as they did not supply the necessary information for. No separate Index should be kept for them, nor any encouragement given them. (*d*). The last answer renders it unnecessary to reply to this question

4. (*a*). I consider there are no means of preventing a number of aliases, and sub-denominations, and that it is extremely dangerous to attempt any alteration whatever in the names of lands. We must take these as we find them, and the only thing that can be done is to improve the Lands Index arrangement in a similar manner, as the names Index has been consolidated in recent years. (*b*). I am clearly not in favour of adopting the Ordnance Denominations as the basis of registration nor of making any changes or additions whatever in the names of lands. (*c*). With the proviso suggested in the question, I cannot see any practical difficulty as regards boundaries, but another difficulty does occur to me, viz. parties often do not know in what Ordnance Denomination, or Denominations, their lands are situate, and not unfrequently Deeds would have to be delayed whilst a Surveyor was employed to ascertain. (*d*). It is unnecessary to answer this question.

5. I do approve of the abolition of Memorials, but not of the substitution of short Abstracts as suggested in the question

6. It would be unnecessary to maintain Memorials as a means of deducing or evidencing title if my suggestions following were adopted.

7. (*a*) and (*b*). I would recommend that registration be effected by the lodgment of a duplicate Deed *in extenso*, without either Memorial or Abstract, but certified as a true duplicate by the solicitor preparing the Deed; and that such duplicate should be executed by all parties against whom it was intended to register the instrument, and the execution verified by a short Affidavit, as Memorials are verified at present, but omitting the unnecessary statement as to the delivery of the Deed, &c., to the Registrar at a particular hour. That the Deed be not copied into the Office books, but a full Abstract made of it therein by the Registry Officials, containing certain defined particulars similar to what is now included in all well-prepared memorials, and that nothing but such Abstract be shown to the general public. The Registrar, or any Judge of the Supreme Court, however, to have power to order such duplicate Deed to be produced, or an attested copy given to any person who shall satisfy the Registrar or Judge that he is reasonably entitled to same. Rules could be easily laid down for the Registrar's guidance as to what classes of parties ought to be so accommodated, and the Judges might be given a wide discretion in the matter. I have heard only two objections to the Registration of a duplicate Deed. 1st The expense; but this would be on an average not more than at present, for now solicitors charge for the draft Memorial 15*s.* per skin, as well as 15*s.* per skin for the engrossment; but if the proposed change were made they would only be entitled to charge for engrossing the duplicate Deed. And the Office expense would not be increased, for, although a few skilled hands would be required to make the Abstracts, there would be less copying and less comparison of memorials. 2nd. The publicity given to private transactions. Against this I have proposed a safeguard which, no doubt, would be sufficient, although I doubt if people in this country would consider the publicity objectionable. They are already accustomed to have the principal part of their Deeds made public, and often voluntarily put on record more than is necessary. Wills are much more private in their nature than Deeds, and yet no objection is ever made to the recording of them *in extenso* in the books of the Probate Court, and affording the public unrestricted access to them.

The advantage of a complete duplicate being on record would be inestimable as a means of deducing and evidencing title, as well as enabling many to ascertain their rights, notwithstanding the improper withholding of Deeds by interested parties. (*c*). I would make the registration of a duplicate compulsory as to all Deeds sought to be registered

8. (*a*). I would only modify the registration fees so far as would be rendered necessary by the adoption of the Duplicate instead of the Memorial, remembering that the Duplicate is not to be copied in the Office books, but I think the Stamp Duty of 2*s.* 6*d.* on the Memorial, and 2*s.* 6*d.* on the verifying Affidavit might be abolished. (*b*). The Office charges are now so moderate, that I don't think a "lower" scale is necessary.

9. I certainly think it would be desirable, with a view to making searches more reliable, to limit a period from the death of the Grantor within which the right to register should be confined, but I cannot see any reason for limiting the period so long as the Grantor lives.

10. I have already stated that I think Affidavits of perfection should be continued. (*b*) Unless in very exceptional cases, such as the death of witnesses, I cannot see why these affidavits should not be made by actual witnesses. A power might be given to the Registrar to allow a person capable of proving the handwriting to verify the Duplicate within a limited period from the date of the Deed, on being satisfied of such capability, and that the witnesses to the Deed are dead or not available.

11. The only other suggestions that occur to me at present for the improvement of the existing system of the Registry of Deeds is, that a larger staff is needed in the office to perform the duties with greater dispatch, and greater facilities should be afforded the public for making hand searches. At present the books are brought by two or three young clerks, who naturally think such a menial occupation beneath them, and perform the duty in a slow and unsatisfactory manner. A few active and intelligent porters would do the work better and at less cost.

12. (*a*) and (*b*). Disapproving so decidedly as I do of any Registry of Title, I cannot enter into the question of "Local" Registries

13. (*a*). I think it desirable to maintain the present system of Judgment Mortgages, with any simplification in practice that can be devised. (*b*). I do not recommend the adoption of the English system, considering that the Landed Estates Court is the recognized market for sale of land in this country, and that its proceedings necessarily take time, it appears indispensable that a judgment should be registered in the Registry of Deeds Office pending its realization. It must be borne in mind that in England they enjoy neither the blessing of a Landed Estates Court nor that of a General Registry of Deeds

14, 15. Not having studied the statute referred to, I am not prepared to give any opinion respecting it.

16. Yes

17. The only plan would be to transfer the Registry of Judgments with all its machinery to the Registry of Deeds Office until, in process of time, the former would become obsolete.

Answer of WILLIAM WHITE, Esq., Solicitor, Dublin.

ANSWERS.

2 (*a*) My opinion is that the Record of Titles Act has few, if any, merits, and although, partly through ignorance of its then future working, and to a larger extent by reason of the omission, through inadvertence, to lodge the non-recording requisition within the prescribed period, a number of Landed Estates Court Conveyances were recorded at the earlier stages of the Act, I believe the almost unanimous opinion of my profession now is that in no case would they advise a client to Record a Title. The principle objection to this appears to be the retention in the Recording Office of the original Conveyance or other recorded instrument. As an instance of the inconvenience of this, I may mention a case in which, in the year 1877, I prepared a Transfer of a Recorded Estate, which included an assignment of a sale of Rent due by a tenant prior to my client's purchase. The Deed of Transfer was retained in the Record Office, and a certificate of the Transfer of the Land alone (describing it in the Deed) was given me. This did not specify the sale of Rent assigned, for recovery of which it subsequently became necessary to proceed in the County Court, and if the case had not been settled after the Civil Bill was issued, it would have been necessary to bring down the Recording Officer or his assistant to produce the Transfer Deed, at an expense equal to the amount sued for. In another case in which I sought to Record the Title of a devisee of a Recorded Estate, under a Will made by an officer in New Zealand, on the eve of an engagement, in which the Testator and one of the witnesses were killed, but where the handwriting was clearly proved, it was refused to admit the Will to the Record unless proved in solemn form. An application to the Judge of the Probate Court for this purpose was refused, there being no personal estate. As the devisee was, in this state of things, unable to deal with the Real Estate, she was obliged to adopt the course prescribed by the 32nd sec. of the Act to close the Record. All this, however, involved an amount of time and expense quite out of proportion to the value of the Estate. I think the concurrent Registries are objectionable, and tend to complication. (*b*). I am decidedly in favour of the abolition of the Record of Title Office. (*c*). So far as I am enabled to form an opinion, I think the Recorded Titles should be remitted to the Registry of Deeds Offices.

Answers of the NORTHERN LAW SOCIETY, Belfast.

1 (*a*). The Committee are of opinion that the existing system possesses many advantages, but these are, however, marred by some serious disadvantages, which ought to be removed, if the system be continued, although probably a change of system would provide the best means of accomplishing their removal. The first defect seems to be that the Registration of a Deed affords no guarantee that it was ever made by the party whose property or interests it purports to bind or affect, inasmuch as proof of its execution by the purchaser, or quasi purchaser, is held sufficient to entitle it to Registration, and no proof of the Vendor, or quasi Vendor, having executed it is requisite for the purpose. The Certificate of Registration, under the hand of the Registrar or Assistant Registrar, affords no sufficient guarantee of Registration, which should be authenticated by means of an indelible seal or other mark, to prevent fraud. The Memorial required is imperfect. It does not necessarily disclose the consideration, the terms, and the conditions upon which the Deed has been executed, nor the covenants and powers (if any) contained in it. The registration is not compulsory and universal; and important transactions may be unrecorded, while a purchaser may yet be held to have had constructive notice of them, and even Acts which have been registered are sometimes omitted, by oversight or carelessness, from negative searches, although the latter are held to be sufficient assurances for the protection of purchasers. It may be incidentally pointed out that the law which attaches responsibility to Solicitors investigating Title for mistakes upon common and hand searches, obtained at the instance of clients, presses very severely and, in this Committee's opinion, very unjustly upon professional men. Suggestions for the removal of several of the disadvantages attendant on the present system will be found hereinafter stated. (*b*). The advantages of economical Conveyancing, to be secured by a Registration of Title, would make it generally preferable to the existing system. It would relieve the practitioner of much difficulty, get rid of embarrassments, which are now met with by the appearing of effete and inoperative Acts, facilitate the Transfer of Land and interests issuing out of Land, and give confidence and security to purchasers.

2 (*a*). The Record of Titles Act has been taken little advantage of, and apparently because it did not make the Recording obligatory and universal; and a practice which is merely optional, is seldom adopted by practitioners and the public. Its being (although necessarily) a separate Office or Department has also militated against the practical adoption of the system. (*b*). The Committee would recommend the carrying on of the system of Record and Registry, if both are to be retained, in one consolidated Registry. (*c*). And they would prefer to have both systems incorporated in a new Registry of Titles, reproducing the present Record of Titles, and embodying with it the further facilities for Registering Titles under Lord Cairns' Act.

3. (*a*). Yes. (*b*). No. (*c*) The specific information should be supplied. (*d*). By either of the parties, within six months, by means of an Abstract, verified by a witness to Vendor's execution.

4. (*a*). Adopt the Ordnance denominations. (*b*). The names on the Ordnance Maps should be specified first in every deed, but might be supplemented, if desired, by other designations. (*c*). No—provided the rights as to boundaries be not absolutely affected.

5. In the event of the Registration of Deeds being continued, the Committee recommend that a full and complete Abstract setting forth the consideration, term, covenants, powers, and conditions contained in the Deed, but not any trusts, and verified by the Affidavit of a witness to the execution by the Vendor should be substituted for a Memorial, and be actual notice to a purchaser.

6. No.

7. (*a*). The abstract should in all cases be sufficient evidence of the contents of the instruments registered in the event of the loss of such instrument. (*b*). Not unfavourable—in addition to abstract. (*c*). The registering of a Duplicate, if recommended, should be optional and confined to instruments containing special or unusual provisions, which could not be sufficiently disclosed by an Abstract.

8. This seems to be entirely a Treasury question, but the fees should be as low as possible.

9. Within six months from the execution, unless by leave of the Land Judges. In order to secure registration.

10. (*a*). Yes. (*b*). On evidence of death or inability to procure Affidavit of witness, it would be desirable to admit Affidavit of at least two persons capable of proving the handwriting.

11. None others have occurred to the Committee.

12. No.

13. (*a*). Yes. (*b*). No.

ANSWERS.

14 (*a*). Yes. (*b*) Not in the absence of practical experience.
15. Yes. Registration should be declared necessary to constitute notice.
16. Yes.
17. Continue the present system in the Consolidated Office until the old judgments die out.

The advantages of registry have been exemplified in the ownership of and dealings with shares in ships, and in all public companies. Policies of assurance, patents, and copyrights. Entry on the Register in all these cases being essential to evidence ownership, the process becomes indirectly compulsory.

Even a banking account is conducted by the registry of each transaction; and there is perhaps no personal property save that under one's immediate control or in his actual possession, which is not the subject of registry; and where such property is not owned by its apparent possessor there must be registry of the circumstance, as by a Bill of Sale in the Queen's Bench.

Facilities rather than inconvenience have been found to result from this practice; and it is strange that land, in respect of which the dealings are so important, so complex, and so peculiarly capable of registry indeed invite it, has not been made the subject of practically compulsory Registration.

Answers of THE SOUTHERN LAW ASSOCIATION, Cork.

1. (*a*). We are in favour of the existing system of the Registry of Deeds, in principle. (*b*) As compared with a Registry of Title we consider the Registry of Deeds has greatly the advantage.

2 (*a*). We are of opinion that the practical working of the Record of Title has been unsatisfactory and inconvenient. (*b*) We are in favour of its abolition. (*c*). We would remit the Recorded Titles to the Registry of Deeds, so as to confine all transactions relating to lands to the one Office.

3 (*a*). Yes, unless by registry a benefit such as notice, priority or otherwise, shall be obtained for the instrument registered. (*b*). Yes, because otherwise creditors may be prevented registering an instrument obtained as a security. (*c*). They should be registered as "General Acts," as at present. (*d*.) It would be desirable to give the parties interested an opportunity of supplying the information required, either by Affidavit or the Certificate from the Ordnance Survey Office

4. (*b*). We are in favour of adopting the Ordnance Denominations as the basis of Registration, by providing that it shall be sufficient that the Deed and memorial shall specify the names of the Ordnance Denominations in which the lands comprised in the Deed are situate; but this should not exclude from Registration any Deed or Memorial in which the lands shall not be so specified, and for this reason, that the party registering the Deed may not have the means of obtaining the required information. As a basis of Registration, the above would be found useful, and would gradually become general. (*c*). We see no practical difficulty in the proposal becoming the basis of Registration, provided it, if not at first, required peremptorily. It should not affect the rights of parties as to boundaries, because the Ordnance Survey, as at present laid down, is not legal evidence of boundary.

5. We do not.

6. We consider memorials useful as a means of deducing title.

7 (*a*). We would not advise any change. (*b*). We are opposed to the registration of a duplicate of a Deed, because such transactions must be considered as of a private character, with which the public have nothing to do. The Statutes protect the public from voluntary Deeds executed to the prejudice of creditors, &c. (*c*). We would allow a duplicate of any Deed to be registered instead of the Memorial, it being optional, but not compulsory, with any party to do so.

8 (*a*). We consider the present Stamp Duties and Office charges in the Registry of Deeds not unreasonable, having regard to the maintenance of the office. (*b*). We do not approve of a higher and lower scale.

9. We would not limit the period at which a Deed may be registered. It is for the benefit of the parties to the Deed that it is registered, and they should not be limited.

10 (*a*). We do. (*b*). No; except in cases where the witnesses are dead or out of the country.

11. None; but to suggest that a power might be given to any person claiming or having an interest under a Deed to sign a Memorial for the purpose of registering it, in the same manner as a devisee under a Will is at present empowered to do.

12. We consider one Registry sufficient in Ireland.

13. (*a*). We do.

14 (*a*.) We do, so far as here stated, but not to the registration of Deeds by lodgment of a duplicate instead of a memorial.

15. We do.

16. We are.

Note by J. G. MACCARTHY, Esq., Solicitor, M.P., Cork

I concur in these answers, except as to the Record of Title Act, which I consider excellent in principle though defective in detail, and as to Local Registries, which I consider most desirable. The whole process of Registration of Title in these countries is cumbrous, expensive and uncertain—opposed to the practice of most civilized countries, and injurious to the legal Profession, the landed interest, the mercantile public, and the State.

Answers of the COUNCIL of the INCORPORATED SOCIETY of the SOLICITORS of IRELAND. ANSWERS.

1. (*a, b*) While we think a Registry of Title, if practicable, would have some advantages over a Registry of Deeds, we are forced, after much consideration, to come to the conclusion that such a registry is impracticable. If, as in the case of the Record of Title, every act entered upon the registry or Record of Title is to be clothed with an indefeasible character, then the care and caution necessary to protect the interests of all concerned render the transactions in relation to recorded land tedious and difficult. In dealing with land subject to the Registry Act there is no occasion to determine or adjudicate upon the rights of the parties when each deed is registered, and probably there may never be any occasion for a judicial decision upon these rights; but where every act recorded is made indefeasible each step must be adjudicated upon when it is taken, and the status of the person affected by it irrevocably determined. A Registry of Title, such as was proposed to be carried out under Lord Cairns' Act in England [38 & 39 Vic., cap. 87], in which no indefeasibility was given to the title, and by which all the transactions affecting particular land could be brought, as it were, into one account (as in a ledger), would, no doubt, be very advantageous; but there are great practical difficulties in carrying out such a scheme, arising from the variety of interests often existing in the same lands, and from the many subdivisions of land. To keep from entanglement all these various interests and subdivisions we believe to be practically impossible; and unless such a scheme could be worked with clearness and without complication, it would hinder rather than facilitate dealings with land. To theorists, the many proposals for Land Registers which have been made from time to time are, no doubt, very attractive, but to experienced and practical men they present difficulties which are really insurmountable, and which, without such experience, it is impossible to understand. We think, therefore, that having regard to the character of dealings with land in Ireland a good system of Registry of Deeds is much preferable to a Registry of Title.

2. (*a*) We consider that the Record of Title has proved to be a failure; and we believe that this would have been more apparent were it not for the provision in the Record of Title Act (sec. VII.), that in all cases in which a purchaser in the Landed Estates Court does not lodge a notice within seven days from the execution of his conveyance objecting to his title being recorded such conveyance is placed upon the record. The effect of this provision (against which we remonstrated at the time) has been that in several instances the title to estates has been recorded contrary to the wishes of purchasers who, from absence or other unavoidable cause, were prevented from giving such notice within the time limited for the purpose. We believe that anyone who has experience of the Record of Title will agree with us in thinking that it is only fit for the simplest transactions and utterly inadequate for the general purposes of land transfer. (*b, c*) Having regard to the failure of the Record of Title to fulfil the expectations of its originators, we consider that it would be for the interests of the public that it should be abolished, and the recorded titles remitted to the ordinary system of registration. This might be effected by having a memorial showing the present condition of the record in each case registered in the Registry of Deeds Office, as is provided in the Record of Title Act for cases where the record is closed. The original deeds might remain in the Land Court in the custody of the Keeper of Deeds, subject to inspection on a judge's order.

3. (*a*) We are decidedly in favour of excluding from the Registry instruments which do not relate to lands, because the registration of such instruments is unnecessary and foreign to the purposes for which the Registry of Deeds was established (see preamble to Statute of Anne), and the effect of permitting such deeds to be registered is uselessly to encumber the registry and embarrass persons dealing with land. (*b, c, d*) We consider that no deeds should be registered unless the lands, tenements, and hereditaments, with the baronies, and counties, or parishes and towns be stated. It has been the practice of the office to place deeds omitting all or some of these requirements upon the registry. This practice is a departure from the Statute of Anne, and has led to the introduction of a number of extra books, involving additional labour and loss of time in searching, and making it incumbent on the office to return on searches deeds of the class termed "general acts." Great expense is thus not unfrequently incurred, and delay and inconvenience arises from the consequent necessity of explaining away acts which have no connexion whatever with the lands being dealt with. If such acts are ever permitted to be registered they should be accompanied by an affidavit stating the lands intended to be charged or dealt with.

4. (*a*) We would gladly suggest a remedy for this evil if we thought such were possible, but though we are quite sensible of the inconvenience we cannot see how it can be obviated. Any proposition we have ever seen for this purpose has seemed to us calculated to cause greater inconvenience than is now caused by the present system, and we have no hesitation in saying that for this reason we much prefer bearing "the ills we have" in this respect. (*b*) We do not think it would be advisable to adopt the Ordnance denominations as a basis for registration. This matter has not now for the first time come before us for consideration. In the year 1862 the same suggestion was made by Colonel Leach, and although many members of the Council of that day were favourable to the suggested alteration it was found on full consideration of the matter that it would be utterly impracticable. Many reasons lead us to the conclusion that the balance of convenience is much in favour of the present system. (*c*) The difficulties which occur to us in adopting the Ordnance townlands would not be removed by providing that the rights of parties as to boundaries should not be affected. (*d.*) We have no suggestions to make which would remove the objections which occur to us as to adopting the Ordnance townland as the basis of registration.

5. We do not approve of the abolition of memorials and the substitution of short abstracts in lieu of them; we consider the assistance which memorials afford as secondary evidence, and particularly in clearing up title, quite sufficient reason for their retention, and we are not aware of any instance in which injury has arisen either from unskilfulness or fraudulent design in preparation of memorials.

6. We consider that memorials as now usually prepared containing short recitals and statements of the nature of the Deeds and signed by the parties, although somewhat exceeding what the Act requires, are most useful as a means both of deducing and evidencing title. In confirmation of this opinion we beg to refer to the fact that it appears from a Parliamentary Return that the average number of copies of memorials issued in five years was 1,743 per annum, while of original memorials 58 per annum were produced in courts of law as secondary evidence.

7. (*a*) We cannot suggest any means by which the preservation of evidence of the contents of instruments, so far as is necessary for the protection of persons dealing with land, can be attained more effectually than by the present mode of registration. Any person who desires to preserve a full copy of his deed may do so under the present system by embodying the entire deed in the memorial, but we do not consider that this should be made compulsory. It is never done in practice save in cases of very short instruments and of conveyances from the Land Court. (*b, c*) We are not in favour of the registration of a duplicate or attested copy of deed, either alone or in addition to the memorial or abstract, as it would necessarily entail much additional expense to the

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parties and lead to delay in the office. If, as we find at present, the work of the Registry Office cannot be done for want of hands, and there are books we believe lying useless for want of time to compare them, what would be the condition of things with copies of long deeds to be compared?

8 (*a*.) We do not consider the present Fees excessive, but are of opinion that having regard to the fact that the surplus profits of the office, from 1830 to 1865, appear by a Parliamentary Return to have amounted to £42,213 14*s.* 11*d.*, it would be only right such surplus should be applied towards an increase of the staff of the office, so that arrears might be cleared off, and delay prevented. (*b*.) We are not in favour of the establishment of a higher and lower scale of fees, for which we see no occasion, and which we think there would be great difficulty in carrying out.

9. We would not limit the period within which the right to register should be confined, but we are of opinion that it would be desirable, with a view to the limitation of searches, that it should be enacted by Act of Parliament that no deed should affect a subsequent purchaser for value without notice, unless such deed shall have been duly registered during the life of grantor, or within five years after his death; and where such event shall have happened before the passing of the Act, then within five years from the Act coming into operation.

10. (*a*.) We consider the affidavit of perfection of the deed and memorial should still be retained (*b*) and we think that the affidavit of an attesting witness (as now required) is much to be preferred to an affidavit by a person capable of proving handwriting, and is a far greater safeguard against fraud, the former proves a fact, the latter merely expresses opinion and belief, and that without there being an opportunity of testing the deponent's veracity by cross-examination. We also consider that a deed should be capable of registry on re-acknowledgment, and an affidavit thereof by a witness to such re-acknowledgment.

11. We think the general principle of the present system of Registry of Deeds in Ireland is not capable of improvement, but we would suggest alterations in the following matters of detail. (1.) We consider the requirement that where the affidavit is sworn in the Registry Office, the person registering should state the delivery and time of delivery of the deed and memorial to the Registrar is totally unnecessary and might well be dispensed with; it is in fact considered unnecessary in all cases where the affidavit is not made in the Registry of Deeds Office, and we see no reason for imposing this requirement in the case of affidavits sworn in that office. (2.) We think also that one attesting witness should be sufficient for the memorial as well as the deed. (3.) We think that all Index Books should in future be kept in duplicate, so as to save constant applications being made for them to the searching clerks in the office, who are thus materially delayed in their work, and that duplicates should be made at once of the past indexes, beginning with the earliest, which are becoming worn and obliterated. (4.) We also suggest that, as in the Registry of Judgments Office, negative searches when made shall be closed, and that same shall be continued for a limited time on payment of a small fee. (5.) The adoption of a short form of certificate (part of which might be impressed by a stamping press) to be affixed by the Registrar at the time of registration, in substitution for the unnecessarily long certificate at present in use, would be desirable. This certificate might be somewhat in this form:—

> REGISTRY OF DEEDS OFFICE, IRELAND.
>
> This Deed Registered
>
> 12th January, 1878.
>
> No. 4568.
>
> } Regr.

The present form of certificate contains nearly a folio, and inscribing it on the 60 or 70 deeds daily registered probably occupies the entire time of two clerks. (6.) We think the system of enumeration of memorials should be a continuous one commencing each year. This would facilitate the issue of the certificate which might be filled in, and the deed handed back immediately on registry. The numbering of the deeds would be thus—1878, No. 4,568; 1879, No. 12. (7.) If it were possible to have the deeds placed upon the Names Index Books up to the day, it would be most desirable—completing a search from the period to which the Index Books are now usually made up is most unsatisfactory and unreliable, and, in fact, dangerous to the interest of the public. The searcher is sent to different parts of the Office to continue his search, part of which is made in day sheets, in which the names are not in alphabetical order, and ultimately is made in bundles of original deeds, or memorials in process of entry. If it were thought impossible to effect this object with the present system, we would suggest that by making it obligatory on the solicitor registering the deed to hand in with his memorial an abstract on a printed form containing the particulars requisite for the abstract books, the difficulty would be removed. No additional trouble or expense would be incurred by the Office except the employment of three persons instead of two for comparison, and this would be compensated for by the much greater rapidity with which the clerk indexing could do so from this compared abstract than from the memorial itself. It appears from the Report of the Registrar of Deeds, dated the 28th of September, 1874, page 25, that such an index is at present in existence as the Consolidated Index—is posted hourly, is in strict dictionary order, and is of rapid reference, but the public have not at present the benefit of it. (8.) We consider that the certificate of registration should be conclusive as to the validity of the registration, excepting in case of fraud. (9.) We think that so far as is practicable the Names Index Book should be kept in dictionary order. We see no reason why this should not be done, at all events, at the conclusion of each year. Any additional trouble caused by keeping such a book would be compensated for in the saving of time afterwards when preparing the Decennial Index. (10.) We believe that the delay in procuring searches which, with the deficiency in accommodation hereinafter alluded to, is really the only well-grounded complaint against the Office, arises from an insufficiency of clerks. We can all testify to the anxiety of the Registrars and officials to facilitate the Profession in the transaction of business, but it is not possible for the Office, with the present limited staff of clerks, to get through the amount of work to be done—work, too, necessarily requiring extreme care and deliberation. (11.) The accommodation for making hand searches is quite insufficient, and much time is lost and inconvenience suffered in consequence. We suggest that much more room should be given for the purpose; that proper desks and seats should be provided for those searching, and properly heated and lighted rooms, such rooms or compartments to be properly classified and arranged, and the books peculiarly relating to each, with proper attendant clerks attached to every division.

12. (*a*.) We could not in any event recommend the establishment of local registries, which we believe would be fraught with danger. It is difficult to carry on such a system as the present Registry of Deeds even with

skilled and experienced hands, and we believe serious mischief would arise from intrusting it to persons less qualified. ANSWERS.

13 (*a*) We approve of judgment mortgages as a means of securing and recovering debts, and more especially beneficial to creditors, since the abolition of arrest for debt But we consider that judgment mortgages should take priority from the date of their registry over unregistered deeds (*b*) While such a remedy exists we do not recommend the adoption of the English system in Ireland as settled by the 23 and 24 Vict, c. 38, and 27 and 28 Vict, c. 112, the latter being as the Commissioners state, "merely a step towards the immediate realization of the creditor's demand," while the judgment mortgage not only provides an immediate remedy, but also affords security to the creditor in case he does not desire to press his debtor, and we think in fairness and mercy to the debtor such an opportunity should be afforded.

14 (*a, b*) We approve of the provisions of the Statute 13 and 14 Vict., c 72, so far as they relate to the registration of equitable mortgages and vendor's lien for unpaid purchase money, being of opinion that all documents dealing with land should be registered, but we cannot approve of the provisions of the Act so far as they require that all wills should be registered A will, from one cause or another, may not be discovered for some considerable period after the death of a testator, and the result of this provision would be that if in such case an heir-at-law conveyed the estate by a registered instrument the estate of a devisee under such will would be confiscated

15 We do not approve of the provisions of that statute as to notice of unregistered instruments, and would prefer leaving the law as it now stands, and as defined by legal decisions on the subject.

16 We are in favour of such consolidation.

17 In the event of the offices being consolidated we would suggest that the judgments obtained before the 15th July, 1850, should be registered within five years from the passing of an Act directing such registry in the Registry of Deeds Office, and that on this being done no further re-registration should be necessary, but that when so registered they should retain their existing rights Provision should be made for the satisfaction of such judgments as in the case of judgment mortgages We suggest also that in future every recognizance and *lis pendens* should be registered specifically against the lands sought to be affected, which could readily be done by setting them forth in a memorial, and that they should only affect the lands against which they should be so registered Also that no writ of *fieri facias* lodged with a sheriff shall attach a chattel-real unless or until a memorandum thereof shall be registered in the Registry of Deeds Office specifying the lands to be sold under such writ.

In conclusion, we trust that in dealing with a system which has lasted for considerably over a century and a half, and with which, in our opinion, so little fault can be found, any legislation which may be thought necessary shall be such as is likely to be permanent and not of a tentative or speculative nature Having observed by the public Press that the Commissioners have had under consideration Mr Dillon's mechanical index, we think it right to state that, having inspected it, we resolved, on the 3rd of May, 1877, that in practice it would not be found an improvement on, or even equal in value to a good Book Index, and we submit herewith a copy of the REPORT OF OUR COMMITTEE OF INSPECTION which was adopted by our Council

REPORT of the COMMITTEE of the COUNCIL appointed to Inspect and Report on MR. DILLON'S MECHANICAL INDEX, above mentioned.

Your Committee have carefully inspected Mr Dillon's Mechanical Index on several occasions, and were assisted by his personal attendance and explanations They have also considered the Reports of the Committee appointed by the Treasury, and the separate Reports of the Registrar of Deeds, printed as Parliamentary Paper No 425 of the Session of 1876, and they have to report to the Council as follows :—

1. No copy of the Treasury minute is annexed to the Reports of the Treasury Committee, but your Committee gather from the perusal of those documents that the reference to the Treasury Committee was solely for the purpose of testing the value of "Mr. Dillon's invention for the simplifying the mode of recording and indexing the work in the office of the Registry of Deeds," and your Committee have excluded from this Report, as beyond the terms of the reference to them, the other matters introduced into the Report of the Treasury Committee, though they present questions of great importance to the profession, and worthy the most careful consideration of the Council.

2. The Treasury Committee, though composed of gentlemen of the highest character and respectability, and whose opinions on other matters your Committee would most highly value, included but two members who were conversant with the practical details of the Registry of Deeds Office, namely, Mr. Richard O Armstrong, formerly a member of the firm of Messrs Newton and Armstrong, Solicitors, and Mr. M. F. Dwyer, the Registrar of Deeds, of those gentlemen the former only has signed the Report approving of the Mechanical Index, while the latter has presented two separate Reports condemning it in the strongest terms

3. Although your Committee can testify to the accuracy of official searches, they feel that there has been and still is delay in obtaining such searches, and would gladly see any system adopted which would tend to prevent such delay, and at the same time combine *accuracy, simplicity,* and *facility of reference,* but your Committee are of opinion that Mr Dillon's Mechanical Index fails to accomplish this end

4. In any proposal to substitute a new form of Index it is of importance to consider how far it can be safely used, not only by the trained officials of the Registry Office, but also by the general public, and, judging from the result of a series of searches on the Mechanical Index by an outside searcher, as detailed in the Second Report of the Treasury Committee, when four out of seven searches were incorrect, your Committee cannot say that by its use *accuracy* in searching is attained.

5. The next advantage claimed for the Mechanical Index is *simplicity,* which is sought to be arrived at by adopting a short abstract of the Deed in the place of a memorial. It is therefore important to ascertain how far "abstracts" would meet the wants of the profession This inquiry is to a great extent answered by Mr. Dwyer, who states that but thirty-six copies of abstracts were called for in the twelve months preceding his report. Your Committee cannot advise that an abstract, though it might be used in addition to, should be substituted for a memorial, if it were for no other reason than that in the investigation of title the benefits of secondary evidence derived from memorials would be completely lost; and some idea of the value of the memorial may be formed from the fact which appears in Parliamentary Paper No. 144 of this Session, that the average number of copies of memorials supplied to the profession in each of the last five years was 1,743, and the average number of original memorials produced in courts of law as secondary evidence yearly during the same period was 58.

6. The next merit claimed for the Mechanical Index is that it will give great "*facility of reference*" Your

ANSWERS. Committee are disposed to think that in the hands of trained officials the index might be worked so as to enable searches on names to be more quickly made, but your Committee are of opinion that in the hands of untrained outside searchers that result would not be attained. To make searches by four untrained searchers, on one decennial roll, against the names of Adams, Young, Brown, and Williams, would involve the rolling and unrolling of several miles of band, causing a serious loss of time; nor would the indicator suggested by Mr. Dillon materially abridge this loss, its object being merely to indicate to the searcher when he may be about to approach the object of his search.

7. So far as your Committee can see, Mr. Dillon's proposition is in effect to confine the Mechanical Index to the names of Grantors, and, although what he calls a sub-index of Townlands is suggested, an Alphabetical lands index, such as is now afforded by the Registry of Deeds Office, is not part of his plan. It frequently happens that a search has to be made on lands alone and the absence from any scheme of an Alphabetical lands index would, in the opinion of your Committee, be a fatal objection to its adoption.

8. Your Committee consider that Mr. Dillon has shown much ingenuity in the theory and construction of his Mechanical Index, but they feel satisfied that in practice it would not be found an improvement on, or even equal in value to a good book index.

Dated this 4th day of May, 1877.

[Received and adopted by Council, 23rd May, 1877.]

Answers of G. BATTERSBY, Esq., Q.C.

1 (*a*). It is simple, workable, understood, and calculated to prevent fraud, while a Registry of Title is not workable, is expensive, and would not be generally understood or adopted for a long time, if at all. In my opinion, the advantages are with the existing system of the Registry of Deeds.

2 (*a*) In my opinion the Record of Title ought to be abolished. When the Act passed, I canvassed its merits with many persons, and I found no one who approved of it except one merchant who thought he could more easily transfer land, in which I think he would be disappointed after some conveyances and descents. I bought three estates myself since the Act, and I did not adopt it.

3. (*a*). I am in favour of excluding from the Registry all acts not affecting lands; to include them would require Searches too indefinite, vague, and uncertain, and likely to impede the free transfer of moveables. I think the Denomination, County, and Barony are essential, and that information should be supplied in the Registry itself at the time of registration by the parties registering, but I do not think that any verification would be necessary.

4. (*a*) The number of aliases may be prevented by requiring each Memorial for Registry to refer to the lands as being called in the Ordnance Survey and Valuation the lands of "A," &c., and requiring every Memorial so to describe them.

5. I approve of such substitution with a reference to the covenants and conditions.

6. I think so.

7. I see no use in a registered duplicate if the Memorial be a proper one.

8. Lowering the Stamp duties would facilitate the transfer of land, but is a question of revenue.

9. If priority date from the time of registration, not of execution, the time to register need not be confined.

10. I think Affidavits by attesting witnesses ought still to be required, and Affidavits from knowledge of handwriting only; not admitted.

12. I would not have them; it would involve expense, trouble and insecurity

13. The Irish system appears to me the more convenient.

14. I approve of the Statute, but it is too voluminous for me to do more than recommend it to the Commissioners.

15. I would not alter the law of notice; doing so would prejudice the working of the Registry of Deeds.

16 I am.

17. Leave them as they are, but in the new office

Answers of J. H. EDGE, Esq., Barrister.

1. (*b*). I think a Registry of Deeds preferable, the practitioners understand it better; a Registry of Title would be difficult and expensive to work, owing to the present complex system of tenure, and (it has been proved) would not be exclusively used, unless made compulsory, which would impose unnecessary expense on owners not wanting to deal with their estates, or on small owners, who at present can obtain purchasers who are satisfied to take a good holding Title.

2. (*b*) I am in favour of the abolition of the Record of Title. (*c*). I would remit the Recorded Titles to the Registry of Deeds.

3 (*a*). I am not in favour of the exclusion from the Registry of instruments not affecting lands. The excluding of such instruments would cast on the practitioners (often Attorneys' Clerks), or Registrars, great responsibility in determining what instruments came within the rule. The registration of such instruments is, I think, often of great utility, independently of the question of priority under the Registry Acts, in case of the loss or destruction of originals. (*b*). I would register all instruments affecting lands, which omit Denominations, &c., as at present.

4. (*a*) The number of aliases and sub-denominations principally arise, I think (unless where the difference is merely one of spelling), from a Townland becoming divided amongst several owners, who give new names to their several estates, which are the names by which they are popularly known. By creating these sub-denominations into separate Townlands, and thus describing them in Rate Books, &c, the use of the old Townland as an alias or further description would fall into desuetude.

4. (*b*). I would not be in favour of using the Ordnance denominations as the sole basis of registration in any way.

5. I am not in favour of the abolition of Memorials, and, I think, it would be found practically impossible to draw out any prescribed form of Abstract suitable to all cases.

6. I think it would be useful to maintain Memorials as a means of evidencing title, &c, and would advise the addition to the present requisites of a Memorial, the setting out the trusts (if any) contained in the instrument sought to be registered.

7. (*b*.) I am in favour of permitting persons to lodge, in lieu of a Memorial, a duplicate or attested copy, or in lieu of a Memorial to have the instrument enrolled according to the present system in the Chancery Division,

and also of the transfer from that Division to the Registry of Deeds of the duties of enrolling Disentailing Deeds and other instruments either enrolled by Act of Parliament or usage, such as Powers of Attorney. ANSWERS

9. I would limit the period of registration to six months from execution, within which the instrument might be registered as of course—I would authorise a Judge on application to order the registration at any period.

10 (*a*, *b*.) I would adopt the present system as the ordinary course, but would authorise a Judge to order registration on such evidence as he thought sufficient.

11. I would advise the abolition of Common Searches and of Negative Searches restricted to the Names or Lands Index only.

12 (*a*) If any system of Registration of Title was adopted, I would advise a central Registry, which would, I think, be more efficiently and economically worked Local Registries would be found very inconvenient where instruments affect lands in several Counties.

13. (*a*) I think Judgment Mortgages preferable to the system for which they were substituted, and that the system, as it has been worked out by legislation and judicial decisions, answers its purpose sufficiently well. (*b*.) I do not recommend the adoption in Ireland of the existing English system, and I would advise the abolition of the right to seize a chattel real under a fieri facias.

16. I am in favour of the Consolidation into a single Office of all the existing Registries, and also handing over to that Office the enrolment of Deeds.

Answers of R. J. ROBERTSON, Esq, Barrister.

1 The main object of a Registry of Deeds is to protect intending purchasers of lands by affording accurate and reliable information as to all acts done by the Vendor, and those from whom his title is derived affecting the lands offered for sale; and I think that the existing system, though susceptible of improvement, effectuates this object to a very considerable extent without involving undue publicity as to the nature of each particular transaction or unnecessary expense. In both these respects I think that the existing system possesses decided advantages over a system of Registry of Title, which would necessarily disclose the precise nature of each transaction, and could only be worked at very much greater expense.

2. In my opinion the Record of Title has produced a great deal of confusion and but little convenience. I am not aware that it has yet been productive of positive wrong, but if the system is much longer maintained, I think that this is likely to be the result in no unfrequent instances, because it is by no means unusual to find recorded owners dealing with their estates as if the Title was not recorded. I am in favour of the abolition of the present Record of Title I would remit the Recorded Titles to the Registry of Deeds, and having regard to the facilities which exist for obtaining Declarations of Title from the Land Judges, coupled with the existence of a Registry of Deeds. I do not think that the system introduced into England by Lord Cairns' Act (38 & 39 Vic. c., 87,) is required in this country, and, in my opinion, any permissive system of Registry of Title existing along with a Registry of Deeds is extremely likely to give rise to mistakes similar to those which have occurred under the existing Record of Title.

3 and **4** I am in favour of the exclusion from the Registry of all instruments not affecting lands, because I think that the Registration of such instruments unnecessarily incumbers the Index. But I think that all instruments affecting lands should be capable of registration, including instruments dealing with money charged upon lands. I would admit to the Registry instruments which affect lands, but which omit the Denominatione, County and Barony. I would not admit any information not appearing from the instrument itself to be supplied for the purposes of registration. In the great majority of cases it is not, in my opinion, essential that the Memorial should state, or that the Index should disclose, the names or situations of the lands affected by any particular instrument, except in the case of instruments executed under statutory powers, *e g.*, Conveyances by the Land Judges. Where the names of the parties whose interests are affected do not appear on the face of the instrument, a Memorial stating the date of the instrument, the names and descriptions of the Grantors and Grantees, and that the instrument affected lands in Ireland, would afford all the information required for the protection of purchasers In the case of instruments executed under Statutory powers, it is often essential that the Memorial should disclose the names and situation of the lands, and I would suggest that in this case alone the Memorial should be required to contain the description of the lands. I would further suggest that in the case of other instruments, no Memorial containing a description of the lands should be received for the purpose of being placed on any Index of lands, unless in the Deed and Memorial the Barony and County were stated, and the lands described by one Denomination for each parcel without any alias. It may be said that difficulties might occur in explaining acts appearing on the Registry if the lands affected were not set out in the Memorial, but facilities for explaining acts appearing on a search are for the benefit of vendors, not for the security of purchasers. I would leave owners of land to take care of themselves, giving them all reasonable facilities, and under a system which should permit the registration of a copy of the instrument in addition to the compulsory Memorial, the fault would he with the owner if any difficulty occurred in explaining an act appearing on the Registry.

5. So far as compulsory registration is concerned I think that the document to be registered should be a short Memorial or Abstract in a prescribed form, restricted to Statutory requirements, sufficient to give notice, in the case of an instrument executed under a Statutory power, of an act affecting the lands comprised in the instrument, and in the case of every other instrument of an act affecting lands of the Grantor or Grantors, or in which he or they are interested.

6 & **7** Memorials as they at present exist are useful, though very defective as a means of deducing and evidencing title. In the event of the abolition of the present system of Memorials, and the substitution of a uniform Statutory form of Memorial or Abstract, I think that some provision should be made with a view to enabling parties who think fit to avail themselves of it, of placing on the registry further evidence of the contents of the instrument; but this I think should be permissive and not compulsory. With this view I should be in favour of permitting the registration of an attested copy of the instrument in addition to the Memorial or Abstract.

9 I do not think that it would be advisable to limit a period from the execution of a Deed within which the right to register should be confined Voluntary settlements in the nature of wills are occasionally executed, and the settlor not wishing that the parties interested shall become aware of the disposition he has made, or that he has made any disposition of his property, not unusually directs that the Deed shall not be registered. I do not think that this should be prevented. But with a view to shorten and so lessen the expense of Searches, I think it would be advisable to limit a period from the death of the Grantor within which the right to register should be confined.

ANSWERS.

10 I think that Affidavits of perfection to some extent afford protection against fraud, and should continue to be required. I think it would be desirable to allow Affidavits of perfection to be made by persons capable of proving the handwriting of the parties to the instruments I would, however, suggest that the Affidavits of Grantees should not be received.

13 I do not approve of the present system of Judgment Mortgages. I think it gives unnecessary facilities for the creation of incumbrances, and this increases the difficulties attending the transfer of land. I should be in favour of the adoption in Ireland of the existing English system.

14 I approve of the provisions of the statute 13 & 14 Vic., c. 72, in relation to the Registration of equitable Mortgages and Liens But instead of the description of the lands, I would make the name and description of the depositor or purchaser, as the case might be, the essential part of the Memorandum I do not approve of the provisions of the statute referred to in relation to the registration of Wills and intestacies. A permissive system of registration under which Wills, which ought to be inoperative, might be rendered operative, or effect might be given to intestacies which did not really exist, is essentially different from a system of registration which makes a valid deed void unless registered If the provisions of this Statute in relation to the registration of Wills and intestacies were to come into operation, the result would probably be greatly to incumber the register. Because, where a person died, leaving a number of Wills, and disputes arose as to which was the last Will, all or several of the Wills would be registered; and if all the Wills were disputed, the heir-at-law would probably register an Intestacy. There is not the same necessity for the registration of Wills as of other instruments, because in deducing title, the death of the person who has made a Will, or died intestate, as the case may be, must necessarily appear, and the attention of the purchaser is at once directed to the fact that he may have made a Will, and in my opinion the existing system, which permits, but does not require, or confer any priority in consequence of registration is the proper one.

15 I approve of the provisions of the statute 13 & 14 Vic., cap 72, as to notice of unregistered instruments.

16 I am in favour of the Consolidation into one Office of all existing Registries which have now to be searched by persons dealing with land.

17 In the event of the Consolidation of the Registry of Judgments with the Registry of Deeds, I would require the owners of old judgments, within a limited period, to register their judgments in a manner similar to that in which judgments presently recovered must be registered in order to affect lands.

Answers of JAMES ORR, Esq., Barrister.

3. (*a*). Not to do so would throw upon the officers the duty of deciding whether each particular Deed did or did not affect lands, a function which, in my opinion, should be exercised by Judges only. (*b* and *c*). I think it would be attended with danger to exclude from the Registry of Deeds instruments from which the Denominations, &c., are omitted; but I cannot suggest any better mode of registering each instrument than the present

5 Yes, provided the provision suggested by me in my answer to No. 7 or some similar provision be adopted.

6 In my opinion the importance of preserving evidence of the contents of deeds in a public Office cannot be overrated. In my own experience I have known several instances where, owing to the loss of deeds by fire or otherwise, the Registry was the only means the owner had of deducing and evidencing his title. I think the system suggested by me, in my answer to No. 7, would for this purpose be an improvement upon the present one, but unless some such system be adopted, I should be in favour of retaining the present form of Memorial

7. (*a, b, c*) I think a uniform Statutory form of Memorial should be required in all cases which should give merely the names, addresses, and residences of the parties, the lands affected, and state the nature of the deed, *e.g.*, "lease for years," "marriage settlement," "conveyance," "mortgage for £ ," along with each Memorial there should be lodged a full copy of the deed to be compared by the officer and certified by him, and when so certified to be made primary evidence of the contents of the deed for all purposes; my reason for recommending a Memorial and copy, instead of a duplicate original only, is that by a proper system of registering the Memorials, Searches would be greatly facilitated and cheapened, as in practice it would seldom be necessary to take copies or Abstracts of the certified copies, and this in my opinion would more than counterbalance any additional expense occasioned by the original registration In my opinion it should be compulsory in all cases to lodge the copy with the Statutory Memorial

9 I am in favour of allowing the law on this point to remain as at present

10 (*a*) Certainly. (*b*) Certainly not; to do so would, in my opinion, open a wide door for fraud

15 In my opinion the present equitable doctrines as to notice of unregistered instruments are eminently unsatisfactory and go far to nullify the benefit of the Registry. In no case should a registered Deed be postponed to a prior unregistered one, except only where express notice in writing of the unregistered Deed is given to Grantee of the subsequent Deed personally before the execution of the latter

Answers of G. H. SMITH, Esq., Barrister.

1 (*a*). In my opinion the advantages of the existing system of the Registry of Deeds in Ireland have been manifested by its operations during the 170 years of its career. With its aid landed property in this country has been dealt with by way of sale, charge, trust, &c., with a security and an economy of time and cost quite unknown in the sister kingdom Without it the procedure of the Incumbered Estates Commission (or its successor, the Landed Estates Court), would have been practically useless; and, though for the last thirty years the Office has been heavily strained in facilitating judicial investigations of title to, and parliamentary transfers of a large portion of the area of Ireland, and in recording operations under the Judgment Mortgage Acts, &c., the system—never originated or matured for such an exceptional use—has, as a system, answered satisfactorily the demands made upon it both by the Court and the general public (*b*). I regard a Registry of "*Title*" with respect to land in the United Kingdom as a practical impossibility for either professional or public purposes, but even if it was feasible, it is, in my opinion, not needed in Ireland, where a Registry of *Deeds* has been in operation since 1708, under circumstances which render a continuance of that system essential

2 (*a*). The merits of a Record of "*Title*" system are, in my opinion, purely superficial, and even these must gradually but perceptibly disappear under the force of every succeeding operation recorded. In Ireland such a system has proved a complete failure, though originated on the exceptionally favourable basis of having a Parliamentary Deed as the root of each Title recorded. (*b*) I would at once abolish the Record of Title Office as a separate department, repeal the Act under which it exists, and transfer its records to the Registry of Deeds department.

ANSWERS.

3 (*a*). I would not exclude any instrument duly executed from the Registry of Deeds It is much better to have even superfluous documents entered there than, by any hard and fast line of Legislative demarcation, to run the risk of excluding Deeds which, though possibly not strictly Deeds affecting land, may have a material bearing on the question of evidence of Title to land. (*b*, *c*, *d*). I think such Deeds, though to be discouraged, should not be refused, and that the present system of classifying them under the head of "General Acts" is, on the whole, the best that can be devised. It would be found often impracticable for practitioners to give, or the office to obtain, the information indicated in sub-question "*d*," and if it could be procured, in my opinion, it should be embodied in the instrument to be registered; for I consider that no entry should appear on the Registry, the materials for which are not contained on the face of the instrument itself, with which the entry purports to be conversant.

4 In a way capable of general application, I see no plan by which the number of aliases or sub denominations in Deeds can be prevented, without the risk of revolutionizing the Title to property in this country. The denominations of lands on the Ordnance Survey could never be adopted as the sole names by which dealings with such lands should be registered unless the entire country was first resurveyed under the provisions of a special Act which would secure that every one should get special notice of what it was intended to do, and without the employment of proceedings which would cost years to elaborate, and millions of money to complete. Generally accurate as that Survey is at present, it is well known that in numberless instances it has been proved to be incorrect as to boundaries, and it is a matter of public notoriety that the names given on it to Townlands in the majority of instances, do not agree with the names by which those Townlands are locally known, or by which they have passed in Crown Grants and family Deeds for centuries. For the purpose of proceedings in the Land Court, special Surveys based upon the Ordnance Survey are in almost every case made by the Ordnance Department, and incident to such Special Surveys, that Court provides that due notice is given to all parties likely to be affected by the procedure with regard to properties passing through the Land Court, and looking only at the interests or wants of purchasers or owners it might years ago have been very easy to provide a means for clearing the Titles, and the Registry of Deeds books, of the greater number, if not all, the aliases or sub-denominations The plan may be illustrated in this way - a petition (for sale or declaration of Title) is presented relating to ten Townlands, each of which is known in Title Deeds, &c, by five names, *i. e.*, one head name and four aliases or sub-denominations The Title being passed and the Special Survey made, showing that the lands comprising those "fifty" separate names are all included on the Ordnance Survey under ten distinct names, the Rental should only recognize those ten names, and the Deed to be executed by the Court should deal with the property by such ten names only. Thus, with regard to all subsequent dealings with such property, forty aliases or sub-denominations would be effectually got rid of without any possible detriment to the Title since the Land Court Deed becomes the root of the Title for the future. The great difficulty, however, in the adoption of such a plan would arise in connexion with the sub-interests in the same lands which the conveyance or declaration would be made expressly subject to, and the Deeds or Leases creating which sub-interests dealt (and of necessity would continue to deal) with lands under the old names or aliases Thus, in a short time identity of names would be completely lost, and complications in tracing Titles, created which do not exist under the existing system Those are, in my opinion, insurmountable difficulties which the safeguard contemplated in query *c*, could not by any possibility meet. That "safeguard" would, however, be in truth no advantage at all, even in respect of boundaries, because it would legislatively adopt as a basis of registration that which the same authority was declaring did not bind any one whatever. (According to the prevailing practice the Land Court, by its Deed, not only perpetuates all past aliases, but often adds to their number of introducing the Ordnance spelling of the names, which differs from all the others) These seem to me to be the necessities of the case, which the system of the Registry of Deeds Department is quite adequate to meet, and though occasionally the number of aliases may increase the amount of official work, and somewhat impede the speedy transaction of public business there, I would not endanger matters of so vital a character by attempting in any way to interfere with what the growth of our landed interest has of itself necessarily created

5. I do not approve of the abolition of memorials, and I consider that the "short abstracts" suggested in the query as "substitutes" for memorials already exist in the "Abstract Book" entries of the office, and should by all means be continued.

6 I regard the maintenance of the Memorial system as essential for the very important purposes of evidencing and deducing title.

7 (*a*) I see none short of a full transcript of the deed itself and to constitute such a transcript legal evidence, it should be duly executed and attested as a duplicate of the deed (*b*) Very serious objections exist to any enactment compelling the registration of deeds in extenso Large numbers of deeds contain recitals of family matters which it is not intended should find a place amongst public records, and which if to be recorded would only encumber the books in the Office, for the attainment of no practical or useful end whatever, and render the duty of Searchers more tedious and laborious. While occasionally it may be true that Memorials presented for registry are rather inartistically prepared summaries of the deeds to which they relate the Official supervision to which they are subjected secures that at least, they summarize the material parts of the deeds which the Statute points out as essential for registration purposes; and in my opinion, any undue interference with those documents, would only result in mischief instead of benefit both in the Professional and Official world As regards Landed Estates Court deeds the Memorials are now in every instance actual copies, in print of the deeds themselves, and though objections have been made to this practice, on the ground that the transcription of such full Memorials in the Registry Office leads to delay and expense, I think there are valid reasons why such Memorials should be continued in their present form Those deeds not only convey lands but they fix with absolute certainty the tenure rights, &c., of tenants thereon, and it is in my opinion desirable that the very words of the deeds, schedule, and all should be recorded, so as to be available as evidence on behalf of or against parties whose rights are fixed by deeds over the production of which deeds such parties have themselves no control whatever I may observe that all objection to the form of those Memorials on the ground of expense, could be obviated by simply providing, that along with the executed Memorial should in each case be deposited in the Registry office a duplicate copy in print, on parchment of a size uniform with that used for the Transcript books of the department Those printed copies could then be bound up without being transcribed at all, and of course the fee for transcription would be reduced or abolished, which would more than compensate for the cost of extra parchment used for such printed (transcript) copy.

8 I think the Stamp duties and Office charges in the Registry of Deeds should be periodically revised, say every ten or twenty years, so as to attain the end originally intended, which was to make the department self-supporting and nothing more. I do not see upon what principle in such a place a higher and a lower scale of duties, &c, could be framed The amount of work done is, roughly speaking, the data for the assessment of fees; and, in my judgment, that is the true principle to be acted on in a Registry Department.

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9. I do not think any limit of time for registration either expedient or desirable.

10. Affidavits of perfection of Memorials in relation to Deeds executed by the Landed Estates Court have always appeared to me to be not only absurd but legally unnecessary, because the Memorial as well as the Deed bears the seal of the Court It is difficult to understand why—except under the pressure of the existing Registry Acts—a document so sealed should not be received for registration without an Affidavit when the Legislature has (by 21 and 22 Vic, cap 72, Sect 8) declared a document so sealed, shall be received in evidence without any further proof thereof, as regards Deeds of every kind, however, I would suggest that it should be declared by the Legislature that no Affidavit of perfection to Memorial should be required except in the following cases —

(*a.*) Where the executing party was a Marksman, or Markswoman, or,

(*b.*) Where the attestation clause is *prima facie*, inaccurate, or incomplete.

In dealing with Testamentary instruments (under which very frequently property real and personal of great value pass), these are the classes of cases in which alone Affidavits of perfection are ever required ; and in my opinion, the same principle might properly be adopted with respect to Deeds The Affidavits of perfection at present required under the Acts regulating the Registry of Deeds Department, do not in any way afford legal evidence afterwards of the execution of either Deed or Memorial

11 (*a*) Repeal the sections of Acts which at present render necessary the preparation and keeping of such duplicates, index, and entry books, &c., as have proved to be unnecessary. (*b.*) Abolish Affidavits of perfection except in the two classes of cases mentioned in answer to No. 10. (*c.*) Require the Memorials to indicate, however briefly, all the covenants contained in the Deed to which it relates, and (as at present) to state at foot the names of parties who executed the Deed as well as Memorial and the addresses and description of all witnesses to such execution (*d.*) Require all public departments at all events (such as Land Court, Board of Works, Church Body, &c.,) to have deposited along with the executed Memorial of each Deed a transcript of such memorial (either in print or in manuscript) on a sized parchment, uniform with that of the Registry of Deeds Transcript Book (*e.*) If possible make a similar regulation apply in the case of all memorials, whether lodged by representatives of public bodies or of private parties (and probably the only cases in which any difficulty would be experienced in carrying this out would be in the very few instances where deeds and memorials might be prepared abroad or in very remote places, but those would, I apprehend, be too few to interfere with the due carrying out of the system generally).

Suggestion (*a.*) would abolish useless books, keeping which at present leads to no useful result, but occupies time unnecessarily and involves expense The others would enable fees on preparation of Memorials to be somewhat reduced and would warrant a considerable reduction in the fees for registration (which would more than compensate suitors for the cost attendant on preparation of transcript copy of Memorial, and would both save time and labour in the Office)

12. In my opinion it would be advantageous to have established throughout the country Local branches of the Registry of Deeds Office, somewhat on the principle regulating Local Registries of the Probate Division for all testamentary cases. The public should have power to register in such Local branch Office every class of Deed which in any way dealt with land or interests in or charges on lands situate within the limits to be assigned to each such office Those branches need not be very numerous (probably one in each province, or at most one for each group of Counties, as scheduled to 40 & 41 Vict, cap. 56), but all should be subordinate to and work in concert with the head department in Dublin. It would be easy, if needs be, to point out how the staff of such branch Offices should be created, &c ; but I content myself by indicating how the work would be carried on, so as still to preserve in the Head Office a day by day Record of all Deeds registered throughout Ireland, and at same time leave in District Offices easily available for Assize and Sessions purposes, at small cost, the original Memorials registered I may mention that the *modus operandi* I am now suggesting for Deeds is based upon the completed scheme, which about ten years since I myself devised and put in operation for grants in the Probate Registries, and which has ever since worked with perfect satisfaction to the public and the Offices.

A Deed (and Memorial) is brought to a branch Office for registration Both are checked to see that the Statutable requirements are complied with. If correct, both are received, and the fees ascertained and paid The Local Officer then prepares brief Abstract of the Deed, containing its date, parties' names and addresses in full, its nature, consideration money. names of all lands included in it, barony and county, &c., and forwards such Abstract by that night's post to Head Office in Dublin. When received there the proper entries in Names and Lands Index books are made from this Abstract slip, which is there provisionally filed The Local Officer then endorses fact, &c , of registration on Deed, files original Memorial in his own Office, and at certain periodical intervals—weekly or fortnightly—forwards Transcripts of Memorials (on paper or parchment of a regulated size, &c.) to head office. The previously forwarded Abstract slip would then be checked in Dublin from the prepared Transcript of Memorial, and all further requisite entries made in Abstract Book, and the Local Branch Transcripts from time to time bound in volumes for public and official reference Each Local Office would, of course, keep an Index and Abstract Book for all Deeds, &c , registered in it, but these would be for local use and convenience merely, and would be supplemental to the Dublin Office Index, which could from day to day show the transactions not only in Dublin but in every office in Ireland

I understand that in Scotland a system of Local Registries did once prevail, but I am not sufficiently acquainted with the procedure there adopted to offer any opinion as to the prudence or otherwise of their abolition I am quite satisfied, however, that in some such way as I have indicated such Local Registries would be practicable and eminently useful in Ireland.

13 (*a.*) No (*b*) Yes

14 No. I think as long as there is a special Testamentary Department, it is much better to leave the record of all Wills, Indentures, &c., to be kept and searched for there alone.

15. No.

16 I am, save as stated in my answer to question 14.

17. Abolish necessity for any re-registration whatever.

Answers of S. DAVIS, Esq., Solicitor, Dublin.

1. (*a*) In my opinion the existing system of Registry of Deeds has many advantages, and if greater facility of Hand Search, and of the result of an Office Search on requisition can be obtained the system will be found as useful as any that can be substituted in its place, subject to some modifications hereafter referred to.

1 (*b*) I prefer a Registry of Deeds to a Registry of Title. I think a Registry of Title will always be found too technical to be popular and ready of adoption, whereas a Registry of Deeds, being more compre-

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hensive and general, will be more esteemed and more used, as being more ready, and in the hands of educated lawyers will afford:—

1. A record of the Deeds.
2. A fixing of priorities.
3. A means of investigating Title.

These elements combined facilitate the dealings with land, and the transaction of business.

I strongly advocate any system that supplies a mode of giving effect to a plan or principle for the conduct of public business to which as little of technicality as possible attaches. I believe this can be had by the simple Registry of a Deed, leaving those concerned to judge of its effect, and for this reason I consider Registry of Deeds is to be preferred to a Registry of Title.

2. (*a*). The Record of Title, in my opinion, has been a failure, because its procedure is technical, and its conception narrow. It conflicts with the Registry of Deeds (an institution well known and valued, and not easily disturbed), and there is a feeling, in my opinion, that there should not be two Registries of Deeds, and the old and tried one is preferred. There is also an idea that a Title by fraud in the hands of a purchaser for value might prevail. (*b*). I am in favour of its abolition. (*c*). I would remit its records to the Registry of Deeds.

3 (*a*). I am in favour of the exclusion from the Registry of instruments not affecting land (*b*). I would not admit to the Registry instruments which affect lands, but which omit Denominations, Barony, and County. I would leave them to be dealt with by law as contracts, but I would admit to the Registry instruments which give Denominations but omit Barony and County. (*c*). If such last mentioned instruments are permitted to be registered I would give them on a separate Index as "General Acts", they will be so few that little expense will be incurred in keeping such a book. I don't think it would be safe to take information as to specific lands affected otherwise than from the Deed. There will be found few (if any) Deeds now a days which omit Barony and County. (*d*) I would not embarrass the Registry by an inquiry for Barony and County as here suggested; I would consider it unsafe.

4 (*a*). I have always considered a Names Index a safe Search. The Landed Estates Court Searches are limited to names. This being so, I would limit the Lands Index to the first primary name of each Denomination, and omit aliases and sub-denominations. (*b*). I am not in favour of adopting the Ordnance Denominations as the basis of Registry; I would fear the great amount of errors that might arise, the responsibility resting on the lawyer, and the delay resulting from inquiry and, for the latter reasons, the serious obstruction of business.

5. I do approve of the abolition of Memorials, and the substitution of short Abstracts not in a prescribed form, but restricted to Statutory requirements, sufficient to give notice of the existence of an act affecting lands, but also sufficient to give information of the general nature and contents of the Deed, and which might be a copy of a short Deed when convenient.

6. I think it would not be necessary to have any Memorial, provided the Abstract was equally sufficient to afford a means of deducing and evidencing title.

7. (*a*) The abstract should in my opinion be preserved as evidence of the contents of the instruments. (*b.*) I am opposed to the Registry of a Duplicate or attested copy of a deed because of the unnecessary length. The disclosure of personal affairs of persons concerned, and the cumbrous nature of the transaction.

8. (*a*) I think the present duties and charges reasonable. (*b*) I do not approve of higher or lower scales of duties and charges, it is a cumbrous and troublesome system, and inapplicable to dealing with land.

9. I see no good reason for limiting the period for the Registry of a Deed. I think any person taking an interest under an unregistered Deed should have power to register it at any time.

10. (*a*) I do consider that Affidavits of perfection should continue to be required, and to be made by an attesting witness, according to present practice, and not by a person who merely knew the handwriting; there is now great facility for making Affidavits to be acted on in the Registry of Deeds.

11. I think with a sufficient number of clerks, the present improved system ought to work sufficiently well to meet all reasonable requirements having regard to the alterations in the system I have suggested. I think the Consolidated Index ought to be compiled for the period antecedent to 1833 similar to that existing since 1833.

12. (*a*) I do not recommend any Local Registry. All wants in this respect can be reasonably well supplied by the principal Registry, and with much more convenience.

13. (*a.*) I do not approve of the present system of Judgment Mortgages. I think when judgment is obtained the creditor should have a right to sell the debtors' land in the Land Court for any debt over £100, and when the creditor's proceeding is taken, it should be registered as a lis pendens in the Registry of Deeds Office, and the judgment should have priority from that date as against the lands the subject of the suit. (*b.*) I have not an opportunity just now of referring to the Act of Parliament alluded to.

14. I am unable at present to refer to the Act stated.

15. I am unable to form an opinion in the absence of the Act of Parliament, but it seems to me that it would require very careful legislation dealing with the question of notice of unregistered instruments. I am rather disposed to leave the law, now tolerably well settled, as it is.

16. I am strongly in favour of one Consolidated Office for the Registry of Incumbrances or charges affecting land.

17. I would cease to require periodical registration of old Judgments; the reason for it does not now exist and they being general charges on the lands of the debtor, they should remain so until paid. I would have one further registry of all such, and no more, and then the books could be transferred to the Registry of Deeds. The like remarks apply to Recognizances.

N.B.—I venture to suggest that bills of sale of personal property might well be transferred to the office for Registration of Deeds.

Answers of A. H. MIDDLETON, Esq., Solicitor, Dublin.

1. I consider the existing system of the Registry of Deeds in Ireland very valuable, but, like all human contrivances, is capable of correction or improvements.

2. I have always had (perhaps erroneously) an unfavourable opinion of the Registry of Titles, and therefore avoid offering any suggestions touching same—save that I am in favour of its abolition, namely, on the ground that it is only suited to a young colony where Title to the land is like the soil—virgin—by all means have the Recorded Titles transferred to a spare shelf in the Registry of Deeds, like a faded beauty.

3. (*a*). I am. (*b*). No.

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4. I am not able to suggest any means of preventing "aliases" or sub-denominations (some of which are wholly unjustifiable), save to charge for each with an increasing scale of fees, but it would be not, I think, safe to adopt wholly the Ordnance denominations nor reasonable to require it.

5. No.

6. Yes.

7. *Vide* 5 and 6.

8. No.

9. No.

10. I do, and I think the Affidavit to the Memorial of a Deed registered upon the signature of the Grantee should expressly state (if it be so) that the Deed was executed by the Grantor.

11. I consider the present system of Registry of Deeds is so perfect and it is and has been so well worked as to be a credit to the Country, and I don't offer any suggestion for its improvement. I have often thought that greater facility might be given for making Searches by dividing the Office into four compartments, each to represent one of our four Provinces, and with a separate Index for each Province. This would practically reduce the labour of searching to one-fourth. The Memorials should be uniform in size, and the province it related to should be very distinctly shown either by shape of the Memorial or by a distinctive colour, so that each would be certain to find its way into its own province. Those Deeds which contained property in more than one Province should have a corresponding number of counterpart Memorials.

12. No; I think there should be but one registry.

13. (*a*) I do.

14. I do not.

15. No.

16. Certainly.

17. The re-registry of the old judgments could readily be transferred to a department in the new Registry of Deeds, and Crown Bonds, Recognizances, lis pendens, and Civil Bill Decrees should all be recorded in one Index.

Answers of G. W. SHANNON, Esq., Solicitor, Dublin.

1. (*a*). I consider that the existing system of Registry of Deeds is so nearly perfect that every effort should be made to complete it in details which can be readily ascertained and rectified. (*b*). In the existing state of our Registry of Deeds, a Registry of Title is needless and embarrassing to the public and the legal profession.

2. (*a*). I consider the Record of Title a serious hindrance to business by reason of its obliging the stop notice to be lodged to prevent Landed Estates Court Conveyances being impounded, and I have never, nor has any of my country correspondents, ever recorded a Deed, although we have been compelled to lodge the notice to prevent it. I have been informed by the late Mr. Keith Hallowes, and by the late Sir Richard J. T. Orpen, that they never had voluntarily recorded a Deed, and they looked on the Record of Title as a useless appendage of the Land Court. (*c*). I would abolish the Office and transfer the Titles to the Registry of Deeds.

5. & 6. I would retain Memorials nearly as now lodged.

8. The Stamp duties are too high—and 13*s.* on Memorial.

11. The delay and mode of passing Deeds for Registry call for improvement, as a *queue* of solicitors and their clerks should not be obliged to stand in a close pen for frequently an hour waiting their turn, where the fees and accumulated funds amply suffice to supply Official help.

12. Local Registries are needless, and would be a failure.

16. One office should suffice for all Land Searches.

Answers of W. R. COPINGER, Esq., Solicitor, Cork.

1. (*a*). I consider that the advantage of Registration of Deeds in this Country is of great importance, nay, indispensable, but, in my opinion, the present system requires modification. (*b*) I never was, nor am I, an advocate for a second office for the Registration of Deeds, or the Recording of Title. I never permitted any conveyance prepared in my office to be enrolled in the Record of Title Office.

2. In my opinion, the working of the Record of Title Office cannot prove of much utility, inasmuch as I am informed that very few Conveyances have been voluntarily recorded, and that the majority of those which have been recorded are done so by reason of the neglect of parties in serving a formal notice on the officer in the Landed Estates Office. (*b*) I think that the Conveyances so lodged in the Record of Title Office should be transferred to the Registry of Deeds Office.

3. (*a*) I am. (*b*). Any deed purporting to affect lands but which does not set out the Denominations ought not to be received. I look upon such as perfectly useless, and the means of creating unnecessary expense. (*c*) I would not permit them to be registered at all; no matter what a Deed purports to be, if accompanied with a Memorial it will be received and registered; this should not be, and is not the intention of the Registration Act.

4. (*a*). I fear it would be very difficult to prevent a number of aliases being registered, for if the Conveyancer puts them in the Deed, they must of necessity be in the Memorial. I consider it a good plan to require that a reference should be made to the Ordnance Denominations in this way: after reciting the names of the lands, stating "known on the Ordnance Survey as the lands of Black Acre." (*b*) The foregoing answers this Query. (*c*) I don't see what the requiring the Ordnance Survey Denominations to be inserted in the Memorials could have to do as to boundaries. I believe that the Ordnance Survey is not of itself evidence. I am aware, of my own knowledge, that Townlands called by particular names in the Ordnance Survey are called by other names in Conveyances, and hence the desirability of referring to the Ordnance Survey.

5. I would not approve of the abolition of Memorials, nor would I approve of the substitution of Abstracts. What I complain of is that in numerous cases the Memorials are not proper epitomes of the Deeds sought to be registered, frequently the nature of the Deed is unintelligible, the consideration is omitted, and there is a total absence of reference to the several covenants contained in the Deed purporting to be registered. I would submit that a Memorial should in every respect be a concise epitome of the Deed, describing parties fully, the nature of the Deed, whether Mortgage or Assignment, the Lands, the Barony, the County, the Consideration, and the nature of the covenants, &c., such as reservations, penal interest, redemption, &c., &c.; this could be done in a few lines and would enable a party to know what he is dealing with.

6. I do, provided they are made a perfect epitome of the Deed.

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7. I am not as before stated an advocate for the abolition of Memorials, I most assuredly would be an advocate for the Registration of a duplicate deed, only for the enormous expense it would entail in the present system of conveyancing

8 I consider that the present Stamp duties and Office charges are far too high, and I believe that if they were reduced, a considerably greater number of Searches would be ordered

10 In my opinion I consider that a total change should be made in the present existing system of the Registry Office There are not to be found in any public department (I know of) a more courteous set of gentlemen than the employés of that establishment, but the entire system should be modified; the accommodation for the public and for the officers is perfectly absurd; there is not sufficient staff for the comparison of the Deeds; there is not proper accommodation for the Officials to do their duty, nor are there an adequate number of clerks to attend to the public either in the Registration of Deeds or in the making of Searches Recently a very good rule has been acted on, namely, the comparison of the Deed with the Memorial; formerly a Deed and Memorial were lodged, they were taken up in turn by the officers for comparison, and some grave error was discovered, whereupon the party lodging the Deed was noticed; in the meantime a Deed of subsequent date, and free from inaccuracies, came in and took its priority as to Registration; but at the present moment, from want of a sufficient staff, it might occupy three hours to lodge a Deed for Registration A system has of late sprung up in the office by a parcel of clerks who style themselves Hand Searchers; they are a perfect nuisance, for if a Professional Gentleman goes himself to make a Search (and it is often essentially necessary that he should do so), he is jostled by those men, over whom there is no control; and if a book is asked for, which happens to be in the hands of one of those men, it will be most uselessly detained so as to tire out the Professional man so Searching There should be a duplicate set of books, say for the last twenty years, and there should be made a general and uniform consolidation of all the Index books for a period of at least thirty or forty years, each book to embrace a period of five years, and each surname put down with similar Christian names kept together, viz., all James Murphys, all John Murphys, &c, then giving the date of the Deed, its nature, name of lands, barony, and county, and then a reference to the book in which the Memorial is to be found; there are a few, and only a few, books carrying this plan out to a certain extent, and should be inspected by the Commissioners, who, no doubt, will at once see the desirability of carrying out some such plan; something of the kind ought to be done, no matter at what expense; and with a perfect Memorial the public would possess a system of registration of which the country might be proud. The Registry of Deeds Office was established to enable parties to purchase properties with proper titles, and therefore I consider that every Memorial lodged should be a succinct and unmistakable epitome of the Deed in all respects, so that nothing should be kept back from the party making his search

12 I am totally averse under any circumstances to Local Registries; if the present system in the existing office was thoroughly remodeled, the public would possess all they desire

13. I never did.

16 I am.

17. I am not at the present moment prepared to answer this question.

Answers of F. M. MURPHY, Esq., Solicitor, Cork.

1. (*a*). From a long experience of the present system of the Registry of Deeds, I am of opinion that the advantages of the present system are very great I have not discovered any serious disadvantages in the existing system (*b*) Judging from the practical working of the Record of Title, as compared with the Registry of Deeds, I do not think it would be advisable to substitute the one for the other.

2. (*a*). The Record of Title is, I believe, a failure, and could never be made of equal utility with the Registry of Deeds. (*b*). I am (*c*). I would remit the Recorded Titles to the Registry of Deeds, but I think the original Title Deeds should be given up to the owners of the property, and duplicates or Memorials lodged in the Registry of Deeds.

3. (*a*). I am (*b*) I would. (*c*). I am in favour of the present system of registering them as General Acts.

4. (*a*). I do not think it would be advisable to omit the aliases and sub-denominations.

5. I do not

6. I think it would be useful to maintain Memorials, as a means of deducing and evidencing title.

8 (*a*) I consider the present Stamp duties require modification, as I consider they are too high where the consideration is small, and too low where it is large, and that the duty should be on the *ad valorem* principle. (*b*) I do not think the Office charges require modification.

9. I am decidedly of opinion that it would not be advisable to limit a period from the execution of a Deed, or death of the Grantor, or from any other time

10. (*a*) I think Affidavits of perfection should be required (*b*) I think it would be desirable to allow persons capable of proving the handwriting to make them where the Affidavit of an attesting witness could not be obtained

12. (*a*) I would approve of the establishment of Local Registries for all estates or lands situate in the district. (*b*) On the principle of the District Courts of Probate.

16. I am not in favour of the Consolidation into a single Office, but I think all existing Registries ought to be in one building, and that building part of the Four Courts or the Custom House.

Answers of H. CRAWFORD, Esq., Solicitor, Belfast.

1. (*a*). The Registry of Deeds, as existing in Ireland, affords many advantages. As a Record of the material parts of Deeds set forth in the Memorial or Abstract it preserves evidence of Title. Registry operating as notice avoids expensive service of notice of deeds and serious inconvenience from loss of deeds. It provides a means by personal search of making out Title. These advantages more than counterbalance publicity given to dealings with land They facilitate incumbrance by puisne mortgages, as it becomes less important to hold the original Title Deeds. (*b*). I consider Deeds Registry is better and less liable to error than Record of Title, which, by sub-divisions by sales, leases, &c, would become liable to become confused, and errors to arise, owing to large numbers of clerks being required, who would not possess sufficient legal knowledge where judgment and extreme accuracy is necessary.

2. (*a*) The Record of Title is unsatisfactory; it has practically been a failure, and has not been acted on to any great extent It is objectionable to have two Offices for Recording Deeds. Lessees are often unaware of Lessor's Title and might omit to enrol in Record of Title Office—besides liability to get complicated from sub-

ANSWERS.

division by conveyance and sub-interest, and errors from want of legal knowledge, judgment, and accuracy of clerks. (*b*). I would abolish Record of Title Office. (*c*) I would remit Recorded Titles to the Registry of Deeds Office, and in all future dealings register the Acts in Deeds Registry, so as to have one system of registry only. I would not adopt 38 & 39 Vic., c 87, for Ireland. The Land Division of the High Court of Justice, Ireland, is a means of inquiring into and declaring Titles. The Deeds Registry Office records notice of dealings with lands. It appears to me undesirable to create a new Court for enquiring into Titles with a separate Registry.

3 (*a*). I would exclude from registry all Deeds not affecting lands (*b*). I would not admit instruments to be registered which omit Denominations, Barony, and County (*c*) If admitted, a separate Index should be kept, as at present. It adds greatly to the labour both of the Office and the public in Searching. I would necessitate the Memorials being made to comply with the requirements (*d*) The parties requiring Deeds to be registered should be obliged to supply the necessary requirements, which should be added to the Memorial, and verified by Affidavit before Deed accepted for registry.

4 (*a*). Adopt Ordnance names as basis for Index. (*b*) It seems to me that the best mode of correcting the multiplicity of aliases, &c, would be to adopt for the Index of Registry the present Ordnance name, and require it set forth in Deed and Memorial, the other names not to be placed on the Index (*c*) In several instances the present Ordnance names are modern, and the lands are described in old Deeds by names which are still retained by Ordnance for adjoining or neighbouring Townlands, new names having been adopted for portions of former Townlands The adoption of the present Ordnance name would in process of time correct this Searches for the antecedent periods would have to be made against ancient names as heretofore. (*d*). It would be desirable to frame a list or glossary of all the Townlands of Ireland showing the several ancient names by which known for general reference, which could be corrected or added to as information acquired.

5 I do not approve of Memorials being restricted to Statutory requirements merely to operate as notice. It would do away with the great benefit existing of evidencing contents of lost Deeds and deducing title.

6 I consider it desirable to maintain Memorials as a means of deducing and evidencing title.

7. (*a*) I would require a Statutory Form of Abstract, which should state date, parties' names, and nature of Instrument and Lands affected, which should be copied into the Index, and in addition a Memorial or Abstract for filing and reference when necessary. (*b*) A full copy of deeds would add considerably to the space required for record, and expense to public, and in most cases a full Abstract would be sufficient I think parties might be permitted to omit recitals of deeds and formal covenants, and a short statement or Abstract of special covenants and powers would be sufficient A Statutory precedent might be given for Memorials or Abstract fuller than is now in most cases given. (*c*) If a copy of deed is determined on, I would make it compulsory. I would prefer copy of Memorial which could be bound up This would save immense labour of copying in the Office.

8 (*a*.) The Stamp duties and Office charges should be modified. (*b*) I think the office fee for registry should be a fixed charge, not exceeding the 8*s*., at present the minimum charge. The additional charges for extra Grantors, extra Denominations, and extra folios should be done away with, as these charges induce to curtailment of the Memorial. The Stamps—2*s*. 6*d*. on Memorial, and 2*s* 6*d* on the Affidavit—might be done away with I would not make a higher and lower scale for registry; possibly 5*s* would be a sufficient sum to substitute for the present charge of 8*s*.; the charges for copies of Memorials should be reduced. The charges for Registry Searches are very heavy, and should be reduced. It might be desirable to adopt one form of official search.

9 No; Deeds should take priority from Registry.

10 (*a*) Yes, it is to some extent a protection against fraud. (*b*.) Except on proof by Affidavit of deaths of witnesses or impossibility of obtaining their Affidavit, I would not allow Affidavits of handwriting Memorials can be made and verified at time of execution of Deed, even if not then recorded.

11 By lodging a copy of Memorial on regulated size parchment to be bound up for reference would save a large amount of scrivenery in Office The Consolidated Index should be continued It affords great facility for searching and would save much time in this department, it was made from 1800 to 1805, and from 1849 to 1869. I would have it made from August, 1828, to 1849, and continued from 1869 to present time, and kept up for the future I don't think the previous earlier period necessary, as the books were kept in Alphabetical order. Much greater space should be provided for the public to search—at present it is quite insufficient—and more clerks to supply them with books, &c. At present great waste of time arises from want of this.

12 (*a*.) I don't think Local Registries desirable; one common Registry for Ireland is best, and affords greater facility for searching I don't think any real inconvenience is caused by having the Registry in Dublin.

13 (*a*.) No. (*b*) I would make Judgment merely a step towards realizing creditor's demand.

14. (*a*) I do not approve of the provisions for registry of Wills and intestacies. As to Equitable Mortgages and liens, I would require them registered in all respects as Deeds, or as nearly as possible, *vide* 14 *b*. (*b*.) A separate Index being required for Wills and Intestacies. I think the present system of record by Probate Court and Record Office better. The lands are not enumerated in Wills. I would keep the record of Wills and Administrations through the Probate Court and Record Office I would require disclaimers of Trusts to be recorded in same Court and Register I would enable Intestacies to be recorded by heir in same Court and Register Equitable Mortgages I look upon as loose irregular mortgages, not to be encouraged, which should not be allowed for an unlimited amount, and should be obliged to conform to all requirements of registry for a regular Deed of Mortgage Registry of lien should comply with requirements for registry against lands, and should specify limit of liability.

15. I would make registry compulsory as notice In the exercise of powers I would make the registry of the instrument executed under the power operate as notice of the power, so far as that instrument was concerned, if the original record did not disclose the power.

16 I would transfer to the Deeds Registry Office the existing registry of recognizances, lis pendens, &c.

17 I would require Judgments which affect lands re-registered once in Deeds Registry Office, recorded a separate Judgment Index. I think process of time, and the unsatisfactory conditions of this class of security, will cause it to wear out.

MINUTES OF EVIDENCE.

TUESDAY, JUNE 18, 1878.

Mr JOHN MAUNSELL, examined.

1 By the VICE-CHANCELLOR.—You are a solicitor?—Yes.

2 How long?—About 30 years

3 Have you had extensive practice?—Yes.

4 Have you had experience of the working of the "Registry of Deeds Office?"—A great deal—particularly since the year 1870, when the Irish Church Act, 1869, came into operation Since that time the Representative Body of the Church of Ireland have lent very large sums on mortgage I am their solicitor and have effected loans for them in different sums amounting to upwards of £4,500,000, and in every one of those loans searches were made

5 You are, therefore, competent to speak of the present system of the Registry of Deeds Office and its merits, and the defects, if such exist, in working it?—Yes

6 In what respects is the present system satisfactory, and in what respects is it not so?—There is a great deal of delay in delivering out the searches One reason for that is that, in fact, every description of deed—deeds in no way relating to land—appear constantly to be put on the Registry

7. Are there numbers of deeds brought into the Registry of Deeds Office which do not affect lands?—An enormous number, and they give very great trouble in the investigation of titles They are returned in searches as what are called "General Acts."

8. Is it your opinion that it would be an improvement on the present system if the registration was restricted to deeds on the face of them affecting lands?—My opinion is that Registry should be confined to deeds affecting lands, but I will not say on the face of them. Deeds which appear on the face of them to affect lands should be put on the Registry; but other deeds which affect lands, though it does not so appear on the face of them, should be capable of being put on the Registry

9 What kind of deeds or documents do you allude to?—Agreements for the sale of lands, or for leases, letters which constitute agreements for the sale, or for leases of lands, can be easily put on the Registry in the way I can suggest

10 Those documents expressly refer to lands?—They always refer to lands, but they do not on the face of them contain what is formally required by the statutes for a good registration, viz, the names of the denominations, the county, parish, or barony, &c

11. What suggestions do you make in regard to deeds and documents such as those?—They might easily be registered in this way, by setting out in the memorial a full copy of the agreement and by the person requiring the instrument to be registered verifying the memorial and swearing that it relates to lands, and making the statements which the statute requires, giving the name of the lands, and the county, barony, or parish where they are situate, &c

12. Could that be effected by requiring a certificate to be annexed to the memorial specifying the denomination of the land affected by the instrument, and the Barony and County where it is situate?—I would sooner have it under the hand of some party to the document itself If a deed could be registered by writing a certificate on the back of the memorial, the registration would be a loose concern, I fear it might lead to many errors.

13 Is there any advantage in registering wills?—Not the least unless it is an unproved will.

14 Is it the custom to register wills that have not been proved?—It is not the habit to register wills; I have known very few instances of its being done I would require that every will not proved, should be registered within a certain time after the testator's death

15 Would you think it an advantage to abolish "General Acts"?—Certainly, I have no doubt about it. I would not allow any deed to be registered that had no reference to land.

16 Mr. MELDON—Is there any way of registering deeds in which the lands are not specified?—Yes, even a deed can be registered, whether it affects lands or not I have seen transfers of policies of Insurance registered.

17 The VICE-CHANCELLOR.—They are put down as "General Acts"?—Yes

18 Mr MELDON.—If a settlement contains a general description of premises without naming them, can it be registered?—Yes, it is registered under the head of "General Acts" It frequently occurs.

19 Mr ARMSTRONG —Are there not certain classes of Landed Estates Court deeds that are registered in full?—The sole object of that is safe custody of the deed for that purpose Registration of that kind is of value I have read memorials of marriage settlements that no one could understand If you want to retain deeds for safe custody for family purposes, there should be some depository for them.

20 Mr MELDON.—You would not allow any deed to be registered in which some lands were not mentioned?—No, if lands are set out in the deed the registration should affect those lands only If the deed affects lands and the lands are not set out in it, I would allow it to be registered on an affidavit being made by one of the parties to the deed, that the deed affects lands and giving the denominations, &c.

21. The VICE-CHANCELLOR —You would allow the defect to be supplied by a sworn statement in the memorial?—By a sworn statement in the memorial, made by one of the parties to the deed.

22. Is it the present practice to compare the parcels and reject the memorial if the parcels in it do not correspond with the deed?—It is

23 Did you ever know a case in which that was done?—Frequently.

24 What is your opinion as to exceptions of particular deeds in the registrations for searches?—I would allow no exception at all. Formerly exceptions were made to save expense, the fee for each copy or extract of any deed or memorial was 3*s*, now I believe it is only 1*s* —I would have every act to appear in the search.

25. You think exceptions dangerous?—I do

26 Do not the officers complain of additional labour by reason of the exceptions?—I can suppose that making exceptions does create trouble

27. Are you aware that the practice is to check and examine every excepted deed in the same way as if a search was made for the excepted deed?—Yes.

28. That gives as much trouble as if the deed was returned in the search?—I should say more

29 Are you aware that a deed will not be registered till the officer has ascertained that the proper stamp duty has been paid?—Yes.

30. Does that cause delay and trouble?—It does

31. Could that be remedied by transferring the duty to the Stamp Office?—Of course. The Registrar of Deeds may not know what the duty ought to be

32. And in that case has he to send to the Stamp Office to inquire?—Yes.

33 Do you think it would be an improvement to have a certificate annexed to the memorial that the duty has been paid?—Certainly.

34. Would there be any difficulty in having a denoting stamp affixed to every deed intended to be registered?—I think not.

35. And when that was affixed at the Stamp Office the deed should be received at the Registry of Deeds Office?—Certainly.

EVIDENCE.

June 18 1878.

Mr. John Maunsell

36. The O'CONOR DON.—Do you think that would lead to a saving of time?—I do. There is a little matter which often leads to confusion, viz., if a deed is accompanied by an affidavit sworn before a Commissioner for taking affidavits in Dublin, or elsewhere, it is handed in and the Registrar receives it, and marks the hour at which he receives it, but if the solicitor goes up with the deed without the affidavit being sworn he is obliged to put into the memorial the hour the deed is delivered to the Registrar. The result is that I have seen ten or twelve clerks waiting to hand in their deeds.

37. The VICE CHANCELLOR.—At present if the affidavit verifying the perfection of the deed is not brought in with the memorial the affidavit must be made in the Registry Office?—Yes.

38. And the affidavit has to be filled up, and must state the hour it is delivered to the Registrar,—is there any advantage in that?—Not the slightest.

39. Is it not productive of delay?—It is. A man comes first with his deed, and the memorial is handed in at two o'clock. The officer takes it shortly after and writes on the back of the memorial that it was delivered at a certain hour. The next man to him may have to go through the process of getting the affidavit filled and swearing it, and that produces delay.

40. The O'CONOR DON.—What does?—The fact that it is not taken before a Commissioner for taking affidavits in Dublin.

41. Mr. FINDLATER.—And the next clerk is watching the clock all the time?—Yes.

42. Mr. ARMSTRONG.—Would delay be prevented by adopting a new stamp?—I think it would. It would prevent much delay to adopt an adhesive stamp.

43. Could not an uniform stamp be adopted?—There is delay in ascertaining the stamp on the memorial. You have to make a calculation?—I think it would save time if a uniform fee for registration could be adopted, that is if the system of memorials is retained.

44. Is it by referring to the Act that the duty is ascertained?—I think the Registrar is not at liberty to receive the deed unless it is duly stamped.

45. The O'CONOR DON.—Do you mean to say that the delay of going to the stamp office would be less than that which at present exists?—I do not know that it would be a saving of time.

46. Would it not take a longer time to go to the stamp office—*i.e.* to have to go to two offices instead of one?—Generally it would.

47. The VICE CHANCELLOR.—Is it not usual to have the stamp put on a deed before its execution?—Some times it is, but sometimes not.

48. Have you considered the proposal to register full copies of deeds?—I would not certainly register full copies. I would go further, and confine memorials to what the statute now requires.

49. You are opposed to the idea of registering full copies or duplicates?—Certainly.

50. What is your objection to it?—One may not wish everybody to know the trusts of a settlement. Everybody does not like to have his deed open to inspection in a public office.

51. Do you think it would be against the wish of parties generally to adopt that system?—It would, and cause enormous expense.

52. And considerable delay?—Undoubtedly, if the officer was bound to see that the document lodged was a true copy.

53. At present the comparison is confined to the statutory requisites—the names, the general nature of the deed, the denominations of the lands, and the consideration?—I do not think it is required that the nature of the deed should be stated in the memorial.

54. The present comparison is less tedious than the comparison of the whole deed would be?—Of course.

55. Mr. MADDEN.—Is there not an important secondary use which may be made of the Registry, viz., to preserve evidence of lost deeds?—Yes.

56. Do you not think that it would be desirable to allow persons, if they think proper, to deposit in the Registry of Deeds Office duplicates, without making it compulsory to do so?—I do not see the least objection to it; but it would make the Registry Office a record room instead of a Registry Office; you might give an opportunity of putting them into some office. There is ample room in the Record Office at the Four Courts.

57. You would keep the two offices separate?—Certainly.

58. Mr. MELDON.—If they were not separate would it not seriously interfere with the registry of deeds business in the office?—Certainly it would.

59. Mr. MADDEN.—Would it not be possible to arrange so that it might not do so?—I do not see any objection to persons being given the option of registering a duplicate or an abstract. The objection I have to a duplicate being registered is that I think the Registry Office is full enough already, and if duplicates are permitted to be registered, there would not be room. If you want to establish a depository for preserving the evidence of deeds, you should find a separate place for putting them in.

60. Mr. JUSTICE ORMSBY.—The lodging of duplicates would involve a comparison. The duplicate should be a duplicate original, and the comparison would take up considerable time?—I certainly would keep the two things distinct.

61. Mr. MELDON.—Would not the establishment of such an office be foreign to the system of the registry of deeds?—Yes.

62. And would it not interfere with the present system?—It would certainly.

63. The VICE-CHANCELLOR.—Are you aware of any delay or difficulty arising from the number of alias names given to parcels of lands?—I am.

64. Have you considered whether any remedy could be applied?—There is a difficulty in a proposal which I saw of referring to the Ordnance Survey Maps. I am afraid that would not do. First of all there is a doubt whether the ordnance maps are always accurate. In fact I know they are not. I will give you an instance of their inaccuracy. I have got in my hand an ordnance map which purports to to be a map of a townland in the County of Clare which was held under a lease for three lives who happened to last for a great number of years. The townland was being sold in the Incumbered Estates Court. The solicitors who had the carriage of the sale imagined that the lands were held in fee simple. No lease could be found. The lands were described in the rental as an estate in fee. Rent had been paid for them. When I discovered that rent had been paid I made a search in the Registry of Deeds office, and discovered the old lease which turned out to be a lease for three lives. The lands were sold as a fee simple estate. I went down to the late Judge Hargreave, and when he discovered the mistake he stayed the execution of the conveyance. A question arose as to what lands were granted by the lease. The Ordnance Map returned one denomination, but on investigation I found that the denomination given on the Ordnance Map was in fact part of five denominations.

65. What was it in the Ordnance Map?—Cappanavarnoge. It was so represented in the Ordnance Map. In point of fact it included parts of four other denominations, viz., Ballyvoghane, Ardgireen, Lisconlane, and Cahircon.

66. Are those parts of the adjoining townlands?—Yes. Parts of the townlands adjoining Cappanavarnoge.

67. Suppose the name of the townland in the Ordnance Sheet was adopted as the statutory name providing at the same time that it should not be conclusive evidence as to the boundaries, would there be any objection to adopting the proposed system?—It is difficult to identify the townland as given on the Ordnance Maps with the old names, when you want to

prove identity you are sometimes obliged to trace out the names in the Ordnance Sheet first and then to get the townland in the Down Survey, and to compare the two I would be afraid of omitting those aliases from the registry search Suppose, for example, a marriage settlement of an estate which had passed by a particular denomination for a number of years, and that the name was dropped, you would see nothing of that in the Ordnance Survey.

68. Is it not the fact that you have now to search for a townland in five or six different places?—It is But as to substituting the name in the Ordnance Map without inquiry I should be slow to do so. The Landed Estates Court always require particular enquiries to be made before they adopt the Ordnance Maps. They will not sell without a proper survey.

69. Mr. MELDON.—In the case you have mentioned, if the lands had been described as in the Ordnance Survey they would not have passed by the conveyance?—They would not I will tell you another instance of the same kind Mr. Pigot made a lease of lands in Limerick They were called in the lease the lands of Wolfs-burgess, and comprised about 24 acres They were divided by the high road, part on one side of the high road was called Knockbrack on the Ordnance Map, and that on the other Beechmount, the proper name of the whole being Wolfs-burgess No search would be effectual unless it was made against the ancient name and the modern name If the law was that you should register under the Ordnance name, the first thing would be to ascertain the Ordnance name. But I look to the danger of it. No doubt if the Ordnance Map is accurate, and the name of the townland correctly given on it, the system would be a good one to make it the basis of your deed, but a person obtaining a conveyance should look forward to his title for twenty or thirty years

70. Mr FINDLATER.—There is trouble and inconvenience at present in purchase deeds?—And in many other instruments

71. Mr MELDON.—There are cases where small farms are made the subject of settlement by persons without knowledge of or the means of getting at the Ordnance Survey Would not the result of adopting it be to deprive them of the benefit of registration?—I would not invalidate the registry of the deed if it did not adopt the Ordnance name.

72. You understand that the proposed change is to make it compulsory to adopt the Ordnance Map?—Yes.

73. Are you aware that there have been mistakes made in Landed Estates Court conveyances in consequence of the boundaries not being accurately described?—I am aware of that. There are two or three cases reported where the property of third persons have been included in the conveyance But that was before the present system of having a survey made The proposed system would prevent deeds being prepared by unskilled persons

74. The O'CONOR DON.—Are there many deeds registered which are not prepared by professional men? Very few.

75. The VICE-CHANCELLOR.—Do you approve of the present system of memorials?—I do not.

76. What are your objections to it?—The memorial should contain the date. It should give the names of the parties in full, their additions and addresses in full. I think it ought also to state the nature of the deed if possible, and it should state the names of the lands, and the County, Barony, and Parish where they are situate.

77. Anything else?—Nothing but the names and addresses of the witnesses in full I think also it would be important that the memorial should contain the name of the solicitor or party who registers the deed, and his address It frequently happens that memorials on the Registry are very short, and it is a great object to discover who prepared or registered the Act.

78. Would it be an advantage that the memorial should be in a tabular form?—I think it would

79. Would there be any difficulty in preparing a printed form for common use, giving all the required particulars in a tabular form?—Not if it was confined to these particulars

80. Do you think there would be any objection to use such form of memorial?—No

81. Would you make it a requisite to the registration of the deed?—I would not receive any memorial that contained anything more I would not allow the memorial to go into a statement of the trusts of a settlement.

82. Mr. ARMSTRONG.—It is not necessary, according to the present practice?—It is not It should also state the consideration when it is stated in the deed.

83. The VICE-CHANCELLOR.—Would there be any objection to its being required to be in a particular shape and drawn on particular paper, with a view to binding?—Not the slightest

84. Do you think it would be desirable to restrict registration to memorials executed by one or more of the grantors, or would you allow it also where the memorial is executed by one or more of the grantees?—I would allow registration on an affidavit of the execution of the deed either by the grantor or the grantee.

85. Memorials have been heretofore used as secondary evidence?—I think that practice ought to be continued, so far as relates to the execution of the deed. But of course I would not allow the memorial to be secondary evidence of the execution of the deed unless the grantor had executed it If it was registered on the signature of the grantee that should not be evidence of the execution of the deed by the grantor, although the registration might be valid for the purpose of notice

86. Do you consider that the affidavit of the perfection of the deed should be continued?—I do not see much use in it if you are bound to produce the original deed at the time of registry.

87. Would it not be of use if you allow registration on the signature of the grantee?—In that respect of course it would.

88. Would you limit a time within which a deed should be registered?—Decidedly I would require that a deed should be registered within five years of its execution Sometimes a deed is registered after the death of an executing party on a memorial signed by his executors, administrators, or assigns

89. Do you think that there should be an exception to the restriction against registering a deed after the limited period by introducing the words "without leave of a judge"?—That would do away with the effect of the limitation.

90. Mr. MELDON.—Do you consider the general system of registration, as it exists at present, effectual?—I never found any mistake in it during the whole of my experience.

91. But you think the system might be greatly improved in the way you have pointed out?—Yes.

92. The O'CONOR DON.—I think you said that there is great delay in obtaining searches?—There is.

93. And that is one of the objections to the present system?—Undoubtedly, and it is a great loss to solicitors in carrying on business where they have to expedite a large loan.

94. How long have you had to wait for the searches in cases of large loans?—In some of the loans which I effected for the Church Representative body we had to wait three months.

95. You think that the present system might be improved so as to enable the office to furnish searches in a shorter time?—I do. It is the system which is defective. I never found any fault in the officers themselves.

96. Mr FINDLATER.—What is the principal cause of the delay?—The immense number of deeds which are registered.

EVIDENCE.

June 26, 1878.

Mr John Maunsell.

JUNE 25, 1878.

Mr. JOHN MAUNSELL, further examined.

97. DR. LONGFIELD.—Have you considered the difference between an alphabetical and a dictionary index of names?—I cannot say that I have

98. The alphabetical requires merely the first letter, and the dictionary index requires them all through. Do you know whether there would be any difficulty in a dictionary index of names?—I think not; but I have not considered the matter very carefully.

99. The CHIEF JUSTICE.—Have you experienced much difficulty from the number of aliases which are frequently given to denominations of lands in leases which are registered?—Yes, there is a great difficulty, I have no doubt

100 Have you ever considered at all whether it would be feasible or desirable to oblige persons to state in their deeds the townlands or denominations as they appear on the ordnance maps?—I think it would be very desirable if they did state them in the memorials, but I have considered the matter closely since I was last here, and I cannot see how it would be possible to confine the descriptions of lands altogether to the names on the ordnance maps.

101. Could it not be done in this way?—could persons not be obliged to describe the lands as they appear on the ordnance maps, without prejudice to their also stating that those same townlands are described by such and such aliases?—Of course there would be no objection to that, but it would be increasing the number of aliases

102. Oh! no, the idea would be only to register, or place upon the Registry the names appearing upon the ordnance maps?—Well, I will give you an instance of how that might work Since the last day I was here I have had a case of my own before Judge Flanagan's Court. The lands were held by a tenant under a grant in perpetuity, and were in the old title deeds described as Tullochinchmore—in all the title deeds of the estate, both of the grantor and of the grantee they were so described, while in the ordnance sheet and there alone they are called Altavilla. Now, no one could find those lands by simply referring to the ordnance sheet I think that furnishes an answer to the Lord Chief Justice's suggestion that only the names on the ordnance sheet should be registered.

103 Mr MADDEN.—But would it not be part of the information furnished to purchasers or persons dealing with property—the first thing almost to be got, the ordnance map names of the particular denominations?—It should be, I think.

104 Would there be any real difficulty in every landlord all over Ireland ascertaining what are the ordnance descriptions of their property?—Take the instance of a mortgagee transferring a mortgage containing the names of old townlands to a third party, he might find great difficulty in tracing them upon the Ordnance Map

105. Have you ever considered whether a temporary difficulty of that kind might be met by a sort of provisional registration, whilst the ordnance descriptions were being ascertained?—Yes, but that increases the number of books again

106. Mr. FINDLATER.—But for the sake of future facilities, would it not be a greater advantage to expose landlords to a little inconvenience now, which would disappear in a year or two?—Yes, if merely inconvenience, certainly. But I would be afraid of a great deal more than inconvenience.

107. The CHIEF JUSTICE.—But does not every person dealing with property know tolerably well where the estate is situate?—Yes, a man dealing with his own property

108. Is there any great difficulty, or would there be any great difficulty in ascertaining what the denominations upon the ordnance sheets are?—I don't think there would be any very great difficulty in ascertaining that; but what I am afraid of is that, if a man's deed was rendered invalid because it did not accurately set out the ordnance names, there would be a great many mistakes and invalid registrations.

109. Don't you think that in a very few years conveyancing by the ordnance registration would be universal in Ireland?—It would be well if that were so, but I do not see how it could be safely done.

110 Suppose in the case which you took of a mortgage, would there be any great difficulty, upon a transfer, stating that lands were described on the ordnance map as so and so, but also described in the original deed of mortgage as so and so?—Not the slightest if you were quite certain that you were giving the correct ordinance names for them. Suppose a transfer of a mortgage on a gentleman's estate, from whom am I to enquire, except the mortgagor or his representative, as to what are the actual lands named on the ordinance sheet—I have to go to my debtor to supply the information.

111. But if a person were dealing as purchaser from a grantor or grantee direct?—Yes—that is different

112. Mr. WALSH, Q.C.—Would not the mortgagor be obliged to pay the additional cost put upon the transfer in satisfying the transfer that the ordnance denomination was so and so, of the lands on the mortgage—why should that interfere with the great boon that would be conferred?—As I said before I quite agree in the theory if it be practicable

113 Aren't you aware that lands are all rated according to the ordnance sheet denominations?—Yes.

114 And doesn't every man know when he gets a receipt for rates that he gets a receipt for rates payable out of a certain townland?—Yes, as I have already said, I don't think there would be much difficulty in ascertaining the ordnance sheet denominations of all lands

115. What practical difficulty could exist then—I pay the rates, I want £10,000 raised upon my lands, and I produce my receipts for rates payable out of certain townland ear-marking them by the ordnance sheet denominations?—No doubt, they could be ascertained, but what strikes me is the difficulty of making it compulsory, so that you could only register upon the ordnance names and those may be erroneous.

116. They cannot be erroneous?—Yes, I showed last day clearly that they are sometimes erroneous.

117. Mr MADDEN.—Is there any other modes that could possibly be conceived, of doing away with those aliases except by adopting the ordnance sheet denominations?—None that I know of.

118. The CHIEF JUSTICE.—On the transfer of a mortgage, in a large majority of cases, the active party—the person borrowing the money is the landlord who is raising money to pay off the old incumbrance, and therefore it is a dealing by him quite as much as by the mortgagee, and would he not be in a position to ascertain upon what townland in the ordnance sheet his property is situate?—Quite so—he would.

119. Mr. WALSH, Q.C.—Look at this valuation for the county of Antrim for instance, and tell us what difficulty there would be—that states every man's property consisting of lands, tenements, &c.?—This (book handed to witness) is the ordinary tenement valuation.

120. The CHAIRMAN.—Showing the owners, &c.?—Yes.

121. And does that give the ordnance names?—It does.

122 Mr WALSH, Q.C.—It is on the ordnance plan and no man can make a mistake unless he is paying rates for property he is not entitled to, which, I should think, few people do

123. Mr. MADDEN.—Isn't it your experience, Mr. Maunsell, that the existing expenses in the registry of deeds press severely upon the owners of small estates?—I don't quite understand your question.

124. There being no *ad valorem* scale, do the expenses of searches press with undue severity upon the owners of small estates—the charges are the same and there are the same searches in the case of small estates which change hands frequently, as in the case of large ones where the search is only made perhaps once in a generation?—No, I cannot say that is so.

125. It must be, you know. The charges are the same all round?—Of course, if they pass through a number of hands they have; but in large estates there are a great many more denominations, you know.

126. Well, except with regard to denominations—a minor matter—isn't it a fact that small estates are dealt with more than large estates, which are affected usually but once in a generation?—I don't know that.

127. Have you ever considered whether we should render the charges of the Registry less heavy upon small interests in land?—I don't think the expenses of making searches is very much at present. We generally confine searches now to names, and, making them from names only, a person is quite satisfied with a common search in very small cases.

128. But if you were to allow the purchasers of small interests in land full searches would it not press heavily on them?—Oh, if they were to get everything they could in strictness ask for, it would, but that is never done in practice—at least not in my experience.

129. Mr. WALSH, Q.C.—Would there be any mode of diminishing the expenses of searches in regard to small estates?—Nothing except reducing, I suppose, the stamp duty. The searches themselves are not expensive. The stamp duty upon each act now returned upon the Registry is only 1*s*. It used to be far more—4*s*, I think.

130. What is the present duty upon each?—The duty is 1*s* on each act returned.

131. The CHIEF JUSTICE.—Without any reference to the magnitude of the transaction?—Yes.

132. Mr. MADDEN.—Are you aware that that was one of the considerations that prevented the adoption of a general Registry in England—that it would press too heavily upon the small proprietors?—I don't think the expense of searches, when made on names, as they now generally are, cost much.

133. Have you ever considered the question of the desirability of protecting purchasers from heirs-at-law and purchasers from devisees against concealed wills?—Well, I don't very well see how you could. I saw a suggestion contained in the report of the last commission that all heirs-at-law should register within a certain time.

134. Do you see any objection to that?—I don't think it would be objectionable, but I don't see the practical difficulty at present. You rarely ever heard of such a case occurring as a will turning up at the lapse of 19 years. I never recollect a case within my experience.

135. The CHIEF JUSTICE.—You don't recollect any case in which devisees of an heir-at-law have been displaced by the turning up of a will?—Never, within my experience. There is one objection to searches that makes them expensive, that is continuing a search—which we are sometimes called upon to do—up to the present time although the man may have died 30 or 40 or 50 years ago. There is one case in which I was called upon to make a search for 43 years after the man died.

136. That is always possible, so long as the witnesses to the deed are alive?—That I think might be prevented by requiring that the deed should be re-registered within a certain time.

137. The CHAIRMAN.—That suggestion is worthy of consideration.

138. Mr. MADDEN.—You are aware that, according to the present state of the law, an equitable deposit by way of mortgage does not require to be registered?—Yes.

139. Are you of opinion that they should be?—Yes. In my opinion every act relating to land should be registered.

140. Dr. LONGFIELD.—Don't you think that a purchaser might protect himself against an equitable deposit by insisting upon getting possession of the title deeds?—Of course he can, or, if they are in the possession of a third party, he can get a declaration of the facts.

141. Mr. MADDEN.—Doesn't the existence of a registry in Ireland make persons less anxious about the title deeds than in England?—Always.

142. Mr. FINDLATER.—Referring to a former portion of your evidence, don't you think, Mr. Maunsell, that it might be quite as important to a person dealing with a small property that he should get a perfectly indefeasible search as well as a man dealing with a large property. You said that they might be satisfied with a common search?—Of course they are entitled to the same search as owners of large properties.

143. Then, you see, the same stamp duty is payable upon the searches against a small property as upon those against a large one?—Quite so, but the number of dealings with a small property are not so extensive as with a large one.

144. Mr. MADDEN.—Is that so—in some of the reports they state the reverse—that small estates are in the market oftener than the larger ones, which, as a rule, are re-settled only once in a generation?—I have not found that so.

145. Of course it is only by depriving purchasers of small properties of the full benefit of the Registry Act that the burden is rendered bearable at all?—Yes.

146. Judge ORMSBY.—It is generally a matter of contract between the vendor and the purchaser that they will be satisfied with a common search?—Yes, and the nature of the search is also generally stated.

147. As a matter of practice, Mr. Maunsell, you spoke of searches being continued after the death, is it not the usual course for persons advising upon title to confine it to two or three years?—Yes, five years, that is the usual practice, four or five years.

148. In the Landed Estates Court we generally say about two years after death, if we see that possession has gone?—In fact the Landed Estates Court practice has always been to take a negative search upon names, and it is a search upon lands that is the great expense.

149. Is it your opinion that it would be desirable to dispense with searches as against persons who have a mere legal estate?—Well, having regard to the Landed Estates Court, I don't mind legal estates at all now.

150. Would not that make a great difference in expenses?—I don't think that Counsel now, as a rule, make searches to get in old legal estates, unless for very special reasons.

151. Dr. LONGFIELD.—I should just like to ask you a question about these statutable mortgages—Is it the result of your experience that these mortgages are a safe security or otherwise? I think they are excessively unsafe.

152. Have you known many instances where they have been disputed and set aside?—I have known a great many instances in which they have been set aside upon legal grounds—non-compliance with the Act of Parliament. But I think there is a greater objection, and it is this, that judgments are not assignable at all now, and the person to satisfy a judgment under the statute is the person who originally obtained it, or, in case he be dead, his personal representative, even though the judgment may have been assigned several times. In a recent case we had to get a judgment satisfied by the personal representative of the late Mr. Murray, of the Provincial Bank, although the statutable mortgage had been assigned

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no less than three times, in order to get it off the Registry.

153. You are of opinion that, as the law at present exists these are very undesirable securities?—No doubt about it; I should be very sorry to lend any money on one.

154. Mr. ARMSTRONG.—There is a certain class of deeds that must be enrolled, deeds of dis-entail, &c., don't you think it would tend to public convenience if that system were abolished and the system of registration in the Registry of deeds office were allowed to take its place?—I cannot say that I do. I think that a disentailing deed, for instance, has this advantage of being enrolled, that if a man is disinherited by the entail being cut off, it is well that he should see the deed that does it

155. He might see the deed in the Registry of Deeds Office?—Oh! You mean to enrol the deeds there

156 Yes, that there should be a consolidation of offices?—Oh! I thought you meant to do away with the enrolling altogether.

157. No, but instead of enrolling such deeds in a totally different office to have it done in the Registry of Deeds Office?—That is a matter of convenience

158. Dr. LONGFIELD.—Of the money you have lent, did you lend any, or much of it, on a recorded title in the Record of Titles Office?—In one case only.

159. How much did you lend?—I think it was £27,000 or £28,000

160. That is a good deal—out of the four millions was it?—Yes, the 4½ millions

161. Did you consider the title safer than if it had been purchased out of the Landed Estates Court?—Not a bit

162. Or more convenient?—No, much more inconvenient.

163. In one case I knew of, the title was recorded by mistake, the deed having been taken possession of by the recording officer in consequence of a requisition not to record it not having been lodged within a week from the date of its execution

164. The CHIEF JUSTICE.—Do you object to that?—Yes, I object to your title deeds being seized against your will, because of your not happening to lodge a requisition signed by the person to whom the Conveyance is made within a week that you do not require them to be recorded, which it may be impossible to do it as that person may be abroad.

165. Do you approve of the provisions of the Records of Titles Act—Lord Cairnes's system?—No, because under the Records of Titles Act you are obliged to lodge every deed in place of a short memorial In one instance, I have a deed here executed in 1868, and up to 1874 there were no less than 10 deeds lodged in addition to the original one That is not simplifying title

166. This is in the Records of Titles Office?—Yes. They have now in respect of this deed, the original conveyance lodged there by mistake, 10 other deeds. It was all a mistake, for the gentleman to whom the conveyance was made never intended it to be recorded, but he happened to be away at the time, and it was taken possession of and recorded, and as I have said there have been no less than 10 deeds connected with it lodged since, so that there is a nice pile there now. Besides that, it is not every deed connected with an estate that you would wish to have recorded.

167. Then as far as your experience goes the Record of Title, as it exists in Ireland, is not worked beneficially?—It has been an utter failure.

168. Judge ORMSBY. And it is not approved of by the profession?—Not at all.

169. Dr. LONGFIELD.—Have you had clients whose titles were recorded?—Not one.

170. Then you don't know whether it is any convenience to the owner of an estate?—I thought your question a few minutes ago referred to merely lending money from the Church body. I have lent it on several other titles.

171. But you have not any clients whose estates are recorded?—No, I advised every one not to do it

172 The CHIEF JUSTICE.—Is that the general practice of attorneys in Ireland, that they advise their clients not to record title?—I know that it is.

173. Then practically it has not been much availed of?—Very little indeed. If every deed that has passed through the Landed Estates Court, and all the dealings with those different estates since, had been recorded, they would have had to build another Record Office.

174. It is necessary when a title is recorded to lodge in the Record of Titles Office every subsequent deed?—Yes, they retain the deed.

175. Mr. ARMSTRONG.—They retain the original deed?—Yes, and if you wish a duplicate of it they will stamp it for you.

176. Mr FINDLATER.—Did you ever experience any difficulty in completing a loan where the title was recorded?—I did not myself, but I know of an instance in which I agreed to lend money on a gentleman's estate, and one small portion of it had not been properly recorded He made out a good title to the remainder of it, but from that day to this—six years ago—he has been unable to complete his title to the portion of the security included in the recorded title. I believe he is selling that bit now in the Landed Estates Court, he has found his case so utterly hopeless.

177. Dr. LONGFIELD.—If the title is simple it is useless, and if it is complete it is difficult and impracticable?—No doubt of it.

178. Mr FINDLATER.—I thought you expressed your opinion last day that it would not be well to load the Registry Office with more than they have at present, and to-day, if I mistake not, you assented to Mr. Armstrong's suggestion that the enrolling of deeds should be transferred to that office, which would necessitate the enrolling there of a copy of certain deeds in full—is that so?—I think the office there is quite full enough as it is, and I don't myself see the practical disadvantage of having the deeds enrolled where they are at present.

179. Would it not be much better to keep the two matters separate—recording and enrolling?—We know where it is now, and I don't see what would be gained by transferring it, I confess.

180. I thought that principle was agreed upon here—that the one was quite different from the other?—Disentailing deeds, as a matter of fact, are generally registered as well as enrolled, you know.

181. The CHIEF JUSTICE.—I think you were asked whether there were any improvements you could suggest in the system of registering deeds in Ireland—have any further suggestions in that respect, occurred to you since the last day you were here?—No, except that as far as my own experience goes I would certainly confine the registration of deeds to the statutable requirements—very much indeed to what the statutes now require. The practice of overloading the Registry with what I can call nothing short of absolute nonsense, is in my opinion very objectionable.

182 That is concerning the registration of deeds that ought not properly to be registered?—Yes. I would not allow any deed to be registered that does not apply to land, and next I would confine the memorial to the necessary facts that give simple notice

183 Judge ORMSBY.—In the tabular form?—Yes

184. Mr. FINDLATER.—Merely to show that there have been dealings with the land?—Yes, without going into the full details.

185. Mr. WALSH, Q.C.—And you would not allow any deed to be registered which referred generally to lands?—I would not—I would exclude all those general references by certain words—I would have a deed void as against all lands not named in it. I don't know whether I am right in making an observation? In the old act, leases for 21 years made to tenants are exempted from registration.

186. The CHIEF JUSTICE.—Yes.—Leases for 21 years reserving the full rent?—Leases to tenants in occupation at a rack rent, and I know of an instance lately in which the greatest possible hardship was inflicted on a tenant by reason of his lease not being registered.

187. Mr. WALSH, Q.C.—The assignment must be registered, but the original lease need not be?—No.

188. Dr. LONGFIELD.—And would you require registration for those leases?—No. I would not require *bona fide* leases to tenants—occupying tenants at rack rents to be registered. I would make them good against any settlement.

189. Mr. WALSH, Q.C.—And would you require assignments to be registered?—Yes. You would have to register the assignments, because that is a tenant dealing with his leasehold, but as against a person claiming under a settlement I would hold the original lease good. As I remarked, I know an instance of great hardship on a tenant. A gentleman made a lease at a fair rent to a tenant for 41 years, or he executed an agreement for a lease. The tenant went into possession and improved the lands considerably. The owners son got married some time afterwards and then the lands were put into settlement. The father died the year before last, and the trustees of the settlement refused to recognize the lease.

190. The CHIEF JUSTICE.—Then you would exclude from the Registry all tenants leases, but you would extend the operation to more than 21 years?—I would extend it to 35 years, or whatever tenants for life have now the power of granting.

191. Dr. LONGFIELD.—I think the act does not require any particular rent?—No. It only requires that the tenant should be in actual occupation.

192. The CHIEF JUSTICE.—It would not do to exclude all leases, if there is no restriction as to the rent, otherwise a party might make a lease for 900 years?—Oh! certainly there should be some restriction.

193. Mr. WALSH, Q.C.—Why should you require the assignments to be registered if not the leases?—Because the tenant is dealing with his own interest.

194. But the landlord is dealing with his own estate in giving it for 21 years.—Suppose a question was raised as to possession and it was said the man was not in possession.

195. Mr. MADDEN.—Would you exclude these altogether from the Registry Act—assignments and leases?—No, only the leases.

196. Don't you think it would be better to extend your theory, and take these out of the operation of the Act altogether—both tenants in possession and assignments under 35 years?—No.

197. Dr. LONGFIELD.—Could you safely exclude from the Act such assignments, when accompanied by delivery of the land and a delivery of the lease?—Yes. You could do it in that way, if the lands passed and there was also a delivery of the lease.

198. Mr. WALSH, Q.C.—Why then not exclude an owner in actual possession, say of 40 acres—suppose a fee-simple owner of land, in possession of the land, tilling it himself—why should not he be excluded as well as a 21 years' leaseholder, one man pays rent, the other does not, that is the sole distinction?—My idea is that, in the case of a man purchasing an estate, it is no hardship on him, and none on the vendor, to make proper enquiries as to how the tenants hold, and what rents they pay.

199. When the 21 years' leases were excluded, lands were not of the same value as they are now. I would rather see every title to land registered—what objection could there be to that?—As a matter of fact, leases are very seldom registered.

200. Judge ORMSBY.—And in selling a leasehold interest, not registered, you find it is made a condition of the sale not to object by reason of such non-registration?—Yes. Leases of that kind are sold in the country, and tenants don't mind if they get possession of the land and the lease. Frequently they don't even take an assignment.

201. But without provision of that kind the title could be refused?—Of course.

202. Mr. WALSH, Q.C.—Just at present, I don't think the small purchasers mind registration, provided they get the lands?—No.

203. Mr. ARMSTRONG.—Have you had any experience in connexion with the registration of lands' improvements?—No.

204. You are aware that they are registered in the Landed Estates Court, in a separate recording office?—Yes.

205. Don't you think it is an inconvenient thing, having a separate office in the Landed Estates Court, in which Acts to effect Lands are recorded—I mean of the class I have referred to?—That is, tenants registering their improvements?

206. Yes?—I cannot answer the question. I have had no experience.

207. Dr. LONGFIELD.—Have you ever known searches to have been made for improvements?—Never.

208. Mr. ARMSTRONG.—But might not the necessity arise?—I don't know that.

209. Mr. MADDEN.—Are there not charges under the Land Act, the existence of which may only be ascertained now by searching the Clerk of the Peace's books—amounting, it may be, to a considerable amount?—Of course there are.

210. Those cannot be ascertained in the Registry of Deeds, at all?—No, and I never heard of a search being directed for them.

211. That is, if a decree is given by a Chairman, it might be for £1,000, and a charging order registered against the estate, you must search the Clerk of the Peace's books to discover it. Would it not be, in your opinion, desirable that in a general Registry you should discover every charge of every sort, including those under the Land Act?—Certainly.

212. Mr. FINDLATER.—A 21 years' lease need not be registered, but an assignment must be. Would it not be better to have all registered?—You may make the law, but it would not, I fear, be generally acted on.

213. Would it not be much better to have our course pointed out as being legal, rather than have a diverse practice?—Certainly.

214. Mr. WALSH, Q.C.—And no question made as to possession?—Certainly.

215. Mr. MADDEN.—You stated in reply to the Chairman that you would discontinue the system of judgment mortgages?—Yes.

216. Have you ever considered what you would do with the existing judgment mortgages and with the old judgments that have been registered. Do you think that a fixed period should be given, within which to obtain an ordinary mortgage, or to realize; and that after the expiration of that period the whole thing should be discontinued?—Possibly that would be the best way.

217. You would both discontinue the system for the future, and you would adopt some means of getting rid of the existing judgments?—Yes.

218. Mr. WALSH.—Might not that work a great injustice?—It might, but there is not a great deal of money due on judgment mortgages. It is never due for any great length of time. There are generally adverse proceedings, and when a person registers a judgment mortgage he generally proceeds to realise.

219. Judge ORMSBY.—Don't you think it might be pressed upon the debtors who owe the money to make it necessary for their creditors to realise their money within a certain time?—Or get, as Mr. Madden suggests, an absolute mortgage.

220. The CHIEF JUSTICE.—So that after a certain number of years no proceedings could be taken upon these old judgments?—Quite so.

221. Mr. MADDEN.—And the only case in which that would be a hardship would be a case in which the lands should have got into settlement?—Yes.

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Mr John Maunsell

222. Mr. WALSH.—Would it not be better to compel them to re-register every five years?—That would be continuing the evil

223. But would it not be less expensive than compelling a man either to call in his mortgage or to insist in getting an absolute mortgage?—No, when registered every five years against the lands by a separate memorial, as I suppose would have to be the case, the expense would be more than getting a new mortgage in a very short time.

224. Dr. LONGFIELD.—What inconvenience do you anticipate from allowing the existing judgments to stand?—The existing ones?

225. Yes, they are there. My evidence in the first instance applied to abolishing them for the future of course.

226. Mr. MADDEN.—With regard to the existing judgment mortgages and to the old judgment requiring to be registered every five years—with reference to the latter are they not very inconvenient owing to the necessity for a re-registry?—It is an inconvenient security, and no one would depend on those judgments alone, for you may at any time lose your money through failure to re-register. But they are dropping out every day.

227. Would you not abolish the old judgments at once then?—I don't think you could as against the present holders.

228. Mr. WALSH.—Are not those old judgments now chiefly existing against old family estates?—Yes, nearly altogether, and even as against old family estates they are dying out rapidly.

229. Mr. MADDEN.—This is really a very practical thing; how would you deal with these? Supposing we did consolidate the office for all charges upon lands, how would you bring the old judgments into the Registry of Deeds?—I never suggested a transfer of the old judgments to the Registry of Deeds; it would be very inconvenient because you enter a judgment now, and according to law now, it must be registered in the Registry of Judgments Office within a certain time, and it might never be registered in the Registry of Deeds office at all.

230. Then, you would continue the two offices?—Yes, as long as the law stands as at present.

231. I am talking of the old judgments, registered within five years?—Yes; and we have a different office for the old and the new judgments.

232. The old judgments under Pigot's Act are against land, and a purchaser must always search in two offices. My question was, would it not be a desirable thing that a purchaser of land should have one office, in which he could find everything, whatever its nature, affecting the land he is going to buy. You agreed to that; and the difficulty arises—how are you going to deal with the old judgments under Pigot's Act?—There really is no difficulty in searching the Registry of Judgments Office. A search is made in three or four days, and you see the old judgments, if any, existing before 1850.

July 2, 1878.

Mr Henry L Keily

TUESDAY, JULY 2, 1878.

MR. HENRY L KEILY examined by the VICE-CHANCELLOR.

233. How many years have you been in the practice of your profession as solicitor?—Twenty-six, I think.

234. You have had an extensive practice during that period, and a good deal of experience in the working of the Registry of Deeds Office?—I have had my share.

235. And you are competent to speak of the present system of the Registry of Deeds—what you think of its merits, and any advantage in it?—Well, that may be taking rather too much upon myself to say.

236. What is your opinion about the proposition of bringing in for registration duplicates or full copies of deeds instead of memorials?—I think memorials infinitely better.

237. Be good enough to state your reasons for forming that opinion?—Publicity is one objection I have. I think it is very objectionable that all the dealings of gentlemen with their estates should be laid open to everybody I don't think that every private transaction, especially temporary arrangements with estates, are at all necessary in the interests of the community at large to be laid open before everybody.

238. Have you considered it with reference to the time that would be occupied in the Registry of Deeds Office?—I should think that, assuming all the deeds in Ireland relating to land were required to be registered in that manner, the place itself would scarcely hold them; and, of course, dealing with a great quantity of deeds in that way would occupy much more time

239. Would there be greater delay in the comparison than there is now in checking the memorial with the deed?—Of course, unless they were printed, and there is such a suggestion, I believe.

240. Are you aware that there are a great many deeds registered in the Registry Office now that don't affect land at all?—Yes

241. And also a number of deeds referring to lands in which the lands are not specified by name?—Yes

242. And others in which the Barony or County is not specified?—Yes.

243. Now, in reference to those different classes of deeds, are you of opinion that any alteration should be made—first, as to deeds not affecting lands at all—should there be a prohibition against registration?—I think not I think it is very useful to register many such deeds—trust deeds, or deeds of release, for instance.

244. Why?—In the case of a release to trustees, for instance, there may be several trustees, and it may be very useful to have it there.

245. Do you mean useful for the safe custody of the instrument?—No, but for the trustees themselves it might be of use to have it registered.

246. But suppose it affects only money in the funds, or goods and chattels?—If you confine the Registry to land then, it would be no good to have such deeds registered, but I don't see any objection to registering deeds that have no reference to land for the benefit of the parties if they choose. It might be very useful.

247. In what way?—As a record

248. For the preservation of evidence?—Yes.

249. And only for that?—I think it is a little more than that Perhaps it would be evidence—that is not for me to say—but it is very useful, I know. For instance, a release to trustees under a will, would it not be well to have such a record?

250. But are you aware that under the present system a great number of those appear upon searches against names which, upon examination, are found not to affect land at all?—Yes

251. And isn't that productive of inconvenience, expense, and delay?—Of course.

252. Now in the case of the second class of deeds that don't specify any lands by name, but refer to lands in general terms, as for instance, "the lands of John Smith in Ireland," or "in the county of Cork," what is your opinion as to the registration of these?—They should be made more definite—they should be brought home in some way to the particular lands affected.

253. At present these Acts are registered in what is called "The General Acts Book," and there is a separate search in that book for them?—Yes.

254. How would you propose to remedy that objection, if a deed does not specify the name of the lands?—It should at all events specify where the lands are to be found—do you mean lands in Ireland?

255. Yes?—Then why should the lands not be specified—I can conceive no reason.

256. Do you think it would be possible, or wise to prohibit the registration of any deed that only made a general reference of that nature to lands?—No, I would not. I would not be disposed to prohibit the registration of such deeds.

257. Have you considered whether a plan of this kind could be adopted—that the memorial should specify the lands which the deed was intended to affect and supply the defect of not naming them in the deed?—If the memorial is signed by the owner of the lands and that he by the memorial admits that these are the lands intended to be bound, it would not be objectionable but otherwise I think it would.

258. Are you aware that there are a great many *alias* denominations for lands put upon the Registry?—I am.

259. Does that produce any inconvenience?—Great inconvenience.

260. Must there not be a separate registration in the Lands Index for every separate *alias*?—Yes.

261. Have you known instances in which a great number of *alias* denominations were found upon the Registry?—I have.

262. Does that add much to the expense and delay of searches?—Of course.

263. Have you considered the propriety of restricting the registered name to a single denomination?—It is much better that it should be so if practicable.

264. Do you think that it is practicable?—Yes.

265. How would you propose to carry it out?—By leaving out the *aliases*. Do you mean, now, for an Estate at large?

266. I mean for the townlands comprising an Estate?—But suppose you were dealing with a portion of townlands?

267. Have you observed the names by which denominations are called on the Ordnance Survey?—Yes.

268. Look at this document—you see in it a number of *aliases*, and that the Ordnance Survey department has selected one name from those?—Yes, apparently that is the parent name.

269. Do you think it would be possible to provide conveniently for the adoption of one name in the registration of deeds, for instance the name fixed by the Ordnance Survey?—No doubt it would be very useful, provided of course that it is not made a hard and fast rule. For instance, a deed prepared in the country without the ordnance maps, and without the information necessary it would, I think, be wrong if a deed prepared from the best knowledge the person preparing it could have in the country, should be refused in the Registry office afterwards because of an informality of that kind. It might work a great injustice. Take the case of a deed prepared in Paris for instance, where the parties had not the accurate information necessary, it would be a great hardship to reject it at the Registry. It might as I have said work great injustice.

270. Would it be possible to supply the requirement, if made part of the system of registration that there should be only a registration against the Ordnance Survey denomination, by the affidavit of perfection or the certificate of the Solicitor, or any other document outside the deed itself?—It would be throwing a great responsibility upon the solicitor, and might be apt to be abused—to get him to certify that lands named by certain *aliases* in the deed mean lands known by another name on the Ordnance map.

271. Would it be possible to carry it out in this way—by referring to the ordnance survey map and ascertaining the name of the lands referred to in the deed and stating that name in the affidavit or in a certificate?—Isn't that getting an outsider who is not a party to explain what are the contents of the deed.

272. Have you considered the present forms of memorials?—Yes.

273. Do you think that the present mode of preparing memorials is satisfactory?—I think fairly so.

274. Do you think that there is any object to be gained by registering anything more than the statutable requirements—namely the parties' names, the date, the name of the land, county, and barony, and the general nature of the instrument—or putting more into a memorial?—I think the parties to a deed might be the judges of that between themselves, and if they wished to put more upon the memorial, I don't see why they should be prevented.

275. Would there not be a great convenience in registration if there was a standard form of memorials prepared in tabular form?—I think we get more information under the present forms.

276. Would you be opposed to there being a tabular form of memorial, merely containing the statutable requirements, substituted for the present forms?—If it was compulsory, certainly. Tabular forms are very useful, but I think the others much better.

277. And what advantage do you think is derived from the present form, setting out so much that is not required by the Statute?—There is a good deal of information afforded by them to purchasers that is most useful, beyond the mere fact that a certain deed was executed between certain parties, relating to certain lands. We get, for instance, in the Registry Office, on a negative search, a return in a tabular form, giving the parties names to a deed, the dates, and so forth; and it invariably is the case that when you see a deed of which you knew nothing before, you go up to look at the memorial, which gives particulars of the particular instrument in more detail and not in a tabular form. And frequently—in the Landed Estates Court notably—(in explaining Acts upon a search), it is the only means you have of explanation. The memorial very often, almost invariably, discloses sufficient information to enable the judge to remove what is called a "query," which he could not do upon a mere statement.

278. Are those benefits that you have been now pointing out connected with the actual operation of the Registry Act, or are they merely matters for general convenience?—I take it that they are matters for general convenience, but I think it would be a great pity to take away from us the advantage which we get from them. If you adopted the tabulated form, and receive no other, we should lose all that, which is a great advantage at present.

279. Are you of opinion that the affidavit of perfection should be continued?—Certainly.

280. Of course you are aware that in affidavits of perfection made at the Registry Office the party making them is bound to go on and state the delivery to the Registrar, and the hour and time at which they are delivered. Is there any advantage to be gained by that?—No, I think the Registrar or his officers might very fairly be expected to chronicle them.

281. Would you approve of the affidavit of perfection being permitted to be made not only by one of the attesting witnesses, but by any person acquainted with the handwriting of the grantor or such other person whose execution of the instrument is to be proved—proving it as you prove a deed now in any court of justice?—I think it safer for the attesting witness to make the affidavit—there is every facility for his swearing it now, all over the world. After all a person knowing the handwriting and swearing to it is, more or less, an expert.

282. You are aware that at present the stamp duty on a deed must be examined by an officer of the Registry Office?—Yes.

283. And that he is not at liberty to register any deed if he is not satisfied that the stamp duty on it is correct?—Yes.

284. Are you aware that that produces great delay and inconvenience?—Considerable.

285. Does it ever happen that deeds have to be taken back to the Stamp Office to have additional stamp duty affixed?—Yes.

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286. Do you think it would be an advantage to have the proper stamp duty ascertained before bringing it to be registered—ascertained at the Stamp Office?—Possibly it would.

287. And to dispense altogether with the examination of the stamp duty at the Registry?—That would impose the necessity of a preliminary examination of all deeds at the Stamp Office, and I see no advantage in that. We all know very well that the duty is 10*s* for every £100, and it is tasking a solicitor very much to compel him to take up every deed to the Stamp Office that he knows is sufficiently stamped to have the fact certified. In the case of difficult deeds or settlements, where there are a number of duties to be assessed, a solicitor usually does take his deed and get the duty assessed, but to require him to do that with every simple deed would be a hardship. Every one knows that there is a great loss of time at the Stamp Office.

288. Do you think it is more convenient to have the present system of checking stamps at the Registry of Deeds Office?—Yes, and you must remember this, that if a deed is not properly stamped it cannot be used afterwards until it has been stamped and a penalty paid. I have never considered the subject before, but I don't see why a deed should be rejected at all because of its being improperly stamped, I mean rejected at the Registry. Many of the Registrar's officers may not know the Stamp Act well.

289. Isn't it part of their duty to know and understand it?—They learn it, but new men cannot be expected to know it all at once.

290. Does not the system of examination pursued afford an important protection to the Treasury for the payment of stamp duty?—I suppose it does; but I was not taking it in that light at all.

291. Judge ORMSBY.—I should like to know whether you think it of any use to have the present lengthy system of memorials, where they do not give any really valuable information as to the contents of the deeds referred to, in such a case say as the trusts of a trust deed?—Yes.

292. Do you think that the tabular form would not be as good a way of registering such a deed, unless the memorial specified accurately the trusts?—I don't think the tabular form is as good as the form of memorial that is now generally adopted. But, of course, there are memorials *and* memorials, and when a gentleman draws a memorial accurately it is a good and useful document.

293. Has it been your experience that very often the memorial of a trust deed states simply in speaking of the trusts—"the trusts therein referred to?"—Yes, "the trusts therein mentioned."

294. Is there any use in a memorial of that kind more than a tabular form?—Certainly not, but if it is properly drawn I think it is useful. If you have a tabular form you leave out a great many things which are included in most memorials now registered.

295. Have you any suggestion to make as to the mode in which a memorial should be prepared, so as not to be too long, but at the same time to give some such valuable information as you suggest?—I think you must leave that to the solicitor just as the drawing of the deed is left to him with an intimation that it should be as concise an abstract as possible of the deed. But I would not compel a solicitor to put it within so many lines measured by rule.

296. You think it should be a concise abstract of the deed—that is your view?—Yes, but not necessarily in tabular form.

297. With regard to deeds not affecting land I think you have expressed an opinion that it is desirable to allow them to be registered?—I would not prohibit it.

298. For what purpose do you think registration of such deeds ought to be allowed?—It is very useful, dealing with peoples affairs, that they should have their deeds registered if they choose.

299. Carrying out that view a little further, would it, in your opinion, be desirable to allow the whole deed to be registered?—Certainly not.

300. To permit it?—Well, practically there is no prohibition of such a course being followed at this moment.

301. We are discussing now whether it is desirable to have it so or not. Are you of opinion that a person should not be prohibited from registering a deed in full?—Certainly they should not be prohibited.

302. It should be left optional for them to do that, or to give a memorial, which you describe as a concise abstract, you think—one or the other of them?—Certainly.

303. Dr. LONGFIELD.—You are of opinion that it should not be made a preliminary to registration, that the stamps should be examined at the Stamp Office?—Certainly not. If at present we want to get a deed beyond yea or nay correctly stamped, it is open to any one to go to the Stamp Office and have it there examined.

304. Do you think there would be any hardship in requiring an adjudication stamp to be placed on every deed, reducing the cost of the adjudication stamp, say to 1*s*?—There is no objection that I can see, except that it would be imposing so much more work in sending up deeds to have them denoted. I am speaking of a deed referring to lands.

305. I am speaking of deeds requiring to be registered. They must be examined as to stamp duty by some person?—Yes.

306. And do you think there would be any objection to having an adjudication stamp of say 1*s* affixed to every deed before presentation for the purpose of registration?—I cannot see any objection. I think it would be a hardship though.

307. Why?—Because it is imposing a very great additional burden on the solicitor. Everyone who goes to the Stamp Office knows that there is a good deal of time lost in getting these stamps; and where the stamp on a deed is plainly correct it is a hardship on me to require that I should get a denoting die on it to show it is so.

308. But it must be examined somewhere?—Yes, but in the Registry Office the Registrar knows at once, except in the case of complicated deeds, when he sends it to the Stamp Office, or consults the Act.

309. Presumably the Stamp Office would pass them without any trouble also?—Of course they might be passed there too just as rapidly.

310. I am unable to comprehend what is the difficulty you foresee in having them all examined in the Stamp Office?—There is no difficulty whatever, but it is imposing, I think, a great deal of extra work on us.

311. Mr. FINDLATER.—But don't you think that it would facilitate business very much if the deeds were examined at the Stamp Office. Isn't it your experience that very often there is inconvenience and delay in the Registry Office, particularly if there are a number of people there, and the Registrar has to pull out his Act of Parliament and examine as to questions of sufficiency and insufficiency of duty on deeds?—Yes.

312. He frequently has to do that, and he does make an examination of the deed?—Yes, in the case of a difficult deed.

313. Doesn't he do it in every case?—He is bound to do so, and does it, I suppose. But if the Registrar of Deeds does it why have the same thing done at the Stamp Office?—You *must* go to the Registry, and if the Registrar passes the stamp why have a previous examination?

314. Would not the officer at the Stamp Office do it more rapidly?—Perhaps he would, but I would rather leave it to the Registry Office officials so long as they have to examine and pass my deed, than go elsewhere.

315. If it was only submitted to the one examination which would you prefer?—The Registry Office, for I *must* go there any way.

316. Mr. WALSH, Q.C.—But don't you think there is greater facility for having it stamped at the Stamp Office than at the Registry office at present? Suppose every deed was required to have an adjudication stamp

affixed would not the officer at the Stamp Office be enabled to do that more rapidly than the Registrar does now?—He does not denote the deeds now

317. But he calculates the duty, and that takes considerable time?—The calculation that he generally makes there is a calculation of his own fees. He looks to see if the duty is properly stamped on the deed; but his calculation is generally as to fees.

318. He looks to see if the duty is correct too, and to ascertain that he must calculate?—That is so, of course.

319. If everybody was required to bring in his deed with an adjudication stamp affixed, would it not facilitate the work of the Registry Office greatly?—I have no doubt it would.

320 That is what we want to get at—then it is only the additional trouble that it would impose—a little additional trouble on the solicitor, or his clerk, or whoever he sent to the Stamp Office, that you object to?—Practically it is.

321. Don't you think it would be beneficial otherwise?—It might, but it would carry with it certainly a great deal of additional work outside the Registry Office.

322. But it would facilitate the work in the Registry Office, and be a saving of time there?—Yes; but then if you with the one hand reduce the denoting duty from 10*s.* to 1*s.*, and with the other require the solicitor to do an act—to go to the Stamp Office—which would entitle him to a fee of 6*s.* 8*d.*, there is not much saving. As I understand Judge Longfield, he contemplated a saving by the reduction of the duty to 1*s* If that is to be done, so be it. But if there is a fee attached to getting the deed denoted there would not be much saving. We don't charge at present for going to the Stamp Office to get the stamps

323. Mr. FINDLATER.—In the case of a great many deeds you are obliged to attend at the Stamp Office and have the duty assessed?—Of course.

324. Mr. ARMSTRONG.—Would not a good deal of time be saved in the Registry of Deeds Office if memorials bore an uniform stamp—say a 10*s* stamp?—Certainly.

325. Would you describe for the Commissioners the manner in which a memorial is usually prepared in a solicitor's office. I mean the details as to the preparation of a draft memorial?—Very often it is prepared by pencilling upon the deed itself, by pencilling out the parts that are not to appear in the memorial and leaving in the operative part, a copy is engrossed from that.

326 Isn't that duty very often discharged by an unskilled clerk?—In some offices it may be.

327. Is it so as a rule?—No, not as a rule. I think it is fairly enough done In ordinary conveyancing offices it is always properly done, and the mode I have indicated is the surest and best.

328. Does not it require a good deal of skill and knowledge to prepare a memorial?—Surely—it is an abstract of the deed.

329. You would be very slow, I presume, to put reliance on the memorial of a family settlement prepared by an unskilled clerk?—I would place no reliance on it, but if it was a truthful abstract of the deed it would be very useful, and as a matter of fact it is found so.

330. Mr. MADDEN.—You mean that it would be better than nothing if the deed was lost?—A great deal better than nothing

331. But it is not compared—there is no comparison of the deed with the abstract there?—No.

332. It is unvouched?—Yes—unvouched.

333. And don't you think that if we could consistently with the working of the office, preserve duplicate originals it would be much more satisfactory than these unvouched memorials or abstracts?—I should be very sorry to have all the deeds of my clients registered in full.

334. Would it not be a better means of supplying evidence of lost deeds, for these memorials are merely evidence in case a deed is not forthcoming?—Of course a copy of a deed is a much more faithful instrument than an abstract.

335. You called attention to certain circumstances under which, in your opinion, it would be a hardship to oblige persons registering to use ordnance denominations only, and you mentioned the case of deeds executed abroad; there is another class of deeds, for instance, equitable deposits for raising money in a hurry?—Yes.

336. Have you ever considered that there might be a provisional arrangement,—supposing the ordnance denominations were adopted, that where the instrument did not contain those there might be a provisional registration of such a deed for a limited period to allow of the defect being supplied?—Then you come to the other objection of mending and explaining the deed by another instrument

337 Do you object to that?—Yes, I would certainly let the deed speak for itself

338 Suppose that we came to the conclusion that deeds or memorials should follow the ordnance denominations, is there, in your opinion, any insuperable difficulty in supplying that missing link in the case of instruments that don't mention them?—I think the registration should be once and for all. I would not mend it afterwards by any statement that it was intended by the deed to represent and bind particular townlands allowing the amendments the same priority as the original registration.

339. Mr. FINDLATER.—If there was a separate office in which any person who chose to preserve a record of his deeds—trust deeds, settlements, &c—for the future; don't you think it would facilitate the Registry of Deeds Office if the tabular form was adopted there giving notice that there were certain acts affecting lands?—Do you mean that there should be two Registries?

340. Yes, if you wanted to preserve an abstract of deeds?—Provided you don't make the tabular form compulsory, and say that there should be that and no other, I don't object to it. What I do object to is that I should be compelled to limit myself within the four corners of a tabular form.

341. Isn't the object of the Registry Office merely to give notice that there have been dealings with, or incumbrances affecting land?—Yes, but the amount of notice you may get differs. All the Registry Act requires to be given is the parties to the deed, the name of the lands, the consideration, the dates, and the short nature of the deed.

342. Those are the only portions of the abstract of the deed that is checked in the Registry even where much more is set out in the memorial?—Yes, but I never knew of a memorial containing more that was found to be incorrect. It may stop short at a certain point, but what it gives is given fairly and properly. In fact it would not be a memorial of the deed if it contained untruthful information. It may not contain the whole information, but what it gives is correct

343. But after a lapse of years there might be a fraudulent representation?—I never heard of an abstract of a deed containing information, or anything, that was not in the deed.

344. Mr. MADDEN.—That might arise from the fact that when the abstract is used the deed itself is generally not forthcoming to check it with—it is lost or mislaid?—I never heard of an instance of a memorial giving a misrepresentation of the deed.

345. Mr. FINDLATER —I know an instance of a person having recited that he was seized in fee, whereas it turned out afterwards that that was a deliberate misrepresentation made 30 years before for the purpose of fraud. He held under a terminable lease and he bought up from his landlord the rent for the residue of the term—about 25 years, and then, at the expiration of that term, he showed that he was for 20 years in possession without paying rent ——

Mr *Keily.*—But did the memorial state that he was seized in fee, and the deed that he was possessed of a terminable interest?

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Mr. FINDLATER.—No, the memorial contained the recital of the deed.

Mr. *Kelly*.—That is what I say; the one is always an echo of the other.

346. The VICE-CHANCELLOR—You know there is a common practice now in obtaining a negative search to specify a number of excepted acts?—Yes.

347. Do you think there is any advantage in that?—No.

348. Are you aware that for every excepted act there is the same trouble in the Registry Office as for an act returned?—Yes, just the same, and the charge is the same.

349. One shilling only is now charged on every act returned?—Yes, and I *think* it is the same with exceptions.

350. Do you think it would be an advantage to abolish exceptions altogether?—Yes.

351. You are aware that a deed may be registered now upon a memorial executed either by the grantee or the grantor?—Yes.

352. Do you think that should be limited to grantors?—I would not prohibit a deed being registered upon the signature of the grantee.

353. Are you aware whether there is any great delay at present in the Registry Office in reference to searches?—Yes, there is a delay.

354. Is it a delay such as to be productive of general inconvenience?—I think so.

355. Now, to what do you attribute that delay?—To want of staff and accommodation.

356. Is there any blame to be attributed, in your opinion, to the present officers—any want of exertion on their part?—Not the slightest. I have always found them most anxious to facilitate everyone, and to speed matters as much as possible.

357. Is it your opinion that they conduct searches with accuracy?—With great accuracy.

358. Have you ever known an instance of an act being omitted from a search?—Never.

359. Or wrongly stated upon a search?—Never; they are very accurate. I had a very heavy search recently—the fees upon the search were over £60. It was a search upon lands and names. They made it first upon names—a great number of denominations—it was a large estate, and they were good enough to give me the acts appearing on that search in anticipation. There was subsequently a search upon the lands, and when I got it there was only one small variance in it. That is a case in which there were a great number of denominations, I think.

360. Do you think it would facilitate the working of the office to have the quinquennial and a decennial index printed?—I think it would.

361. The number of copies could be easily multiplied?—In that case they could.

362. And as index books became worn out by use they could be supplied by spare copies?—It would be very useful.

363. You are aware that now, in a great many cases of searches, you are obliged to continue the search down to an indefinite time after the death of the party against whom you search?—Yes.

364. And that any limit of time is merely a matter of prudence?—Yes.

365. Do you think it would be well to confine the time for searching to within a certain period after the deed was executed?—I don't know that I would.

366. Within a certain number of years after its execution?—I don't think I would. As long as there was a possibility of its being registered I would let it be registered. I have never known any great inconvenience to arise from the present practice of searching for a number of years after the person's death. I have known inconvenience to arise from points raised upon the non-registration of deeds that it has been possible to get over by registering them even upon the signature of the heir-at-law, and I see no objection to that, but on the contrary, advantage.

367. Do you think it would work conveniently to limit the time within which a deed might be registered after its execution but with liberty to apply to any of the divisions of the High Court of Justice, or Judges of Divisions, for leave to register after the time had lapsed?—But it would be granted, as of course.

368. Upon special circumstances?—I don't see why it should not be registered without leave if it can be properly registered.

369. Would such a course as I have suggested not do away with the inconvenience of continuing searches for an indefinite period?—I don't think there is much inconvenience arising from the present practice.

370. You have had a good deal of experience in judgment mortgages?—Yes.

371. Do you approve of them as a security?—Certainly not.

372. Does the existence of judgment mortgages encumber the Registry much?—Of course it does.

373. And would you propose to discontinue the present system?—Yes.

374. And make a judgment affect lands only on execution?—Only on execution—that is as regards future judgments. Of course you cannot touch standing judgment mortgages.

375. At present we have the Registry of Deeds office, the Registry of Judgments—Mr. Perrin's—office, and also the enrolment of deeds department in the Chancery enrolment office, would there be any advantage or convenience in consolidating these offices?—I think I would consolidate them and carry them all on together.

376. Have everything against land shown in the one office?—Yes.

377. Have you considered whether it would be an advantage or convenience to adopt the townland unit registration, and to open a heading for every townland, and let every act registered against that particular townland appear on the page on which it was opened—every act by every successive owner or encumbrancer?—It would be a difficult thing to do, I think.

378. Have you seen Colonel Leach's system?—No.

379. Look at that specimen of it—the townland of Ballynagall, parish of Kilbride, [shown copy pamphlet by Col. Leach.] Do you think it would be an advantage if a system of that kind were adopted, so that on one sheet of the Registry you could see at a glance every act affecting a particular townland?—I don't think it would be an advantage—but I have not studied the system.

380. Have you had any experience of the recording of titles?—Not much.

381. Has the system succeeded in Ireland?—No.

382. Is it likely in your opinion to succeed?—Never, I think.

383. Have you found amongst your clients a disinclination to the recording of their titles?—Certainly.

384. Can you state the reasons why they generally disapprove of, and you disapprove of this recording?—It may have been prejudice in the first instance, but it has become perfectly impossible to work it. For instance, in lending money, a client won't lend on, and it is impossible to deal with, a recorded estate now. For the purposes it was contemplated to further it has failed—it has had the very contrary effect. It was never thought much of, whether from prejudice or a more solid objection I won't undertake to say, but in the end it is useless—worse than useless.

385. In all your practice have you ever recorded a title?—No, but I once had one recorded against me—I could not help it. At present there is a conflict arising out of an order of the Court of Chancery. It is a case in which a minor's money was allowed to be invested in the purchase of a head rent arising out of an estate—£4,000 or £5,000 was thus invested pursuant to an order of the Court, which directed that the purchase should be in the name of the minor and that the purchase deed should be brought into the court and

deposited there. When we came to carry out the order a difficulty arose, and it appeared impossible to prevent the title being recorded for the purchaser being the minor, he could not sign within the required fourteen days the order against so doing, but it is a matter of discussion now how to stave over the difficulty, for apparently it must be recorded, and yet if the court order is obeyed the title deed must be deposited in the Court of Chancery.

386. Judge ORMSBY.—What is your opinion as to its not being now necessary to register certain leases —tenants leases for 21 years—are you in favour of that exception?—I think so, I don't see why a tenant should be put to the expense of registration if he does not like.

387. Would it be desirable to extend that a little further, and include in the exception leases say for 35 years?—Yes, as far as the law allows a tenant for life to lease.

388. You think it would be desirable to except all leases that a tenant for life might make from registration?—Yes, I think 35 years is the limit, and I think a lease for that time should be excepted if a 21 years' lease is excepted

389. Would you still have the exception limited to leases at a rack-rent, and where the land is in the actual possession of the tenant?—Certainly.

390. Mr. FINDLATER.—Musn't an assignment of a lease of that kind be registered?—Not necessarily, when the principal is not registered. It is, of course, usual however

391. If the possession does not go with the assignment?—Certainly.

392. You think judgment mortgages ought to be abolished?—Yes.

393. Would you substitute any other remedy leaving the creditor of an owner of land power to obtain a charge upon the land—taking the case of an adverse creditor at present, he gets his judgment against the owner of land, and he can register that as a mortgage against the land, which mortgage he can realize afterwards if the owner does not pay him—if you take away that right, suppose the owner goes to live out of the country, what remedy would you give an adverse judgment creditor to realize the amount due to him?—I don't know now really how a judgment creditor would act then, but he has his remedy by execution. I don't think you can touch the judgments now standing, but in future I would not allow a judgment creditor to have any charge upon land

394. Would that not be a great hardship on judgment creditors for small demands if, say, the owner went out of the country?—I think not.

395. Mr. MADDEN.—You would allow such a claim to be turned into a statutable mortgage, or in some way to stand good against the land?—Yes.

396. You are in favour of consolidating certain offices?—Yes.

397. Would you go further and say that you should in a Registry discover all charges against land—take, for instance, charging orders under the Land Act which are now registered in the Clerk of the Peace's office, would you bring into the general Registry all charges upon land?—Yes.

398. With regard to judgment mortgages you say that in future you would make judgments a step towards the realization of the creditor's demand against land judgment creditors to a way in which they could realize them against land?—Yes

399. And you would not disturb existing judgment mortgages?—No.

400. Then if you transferred the registry of judgments to a general registry, how would you deal with the old judgments, which, you know, require to be re-registered every five years?—I would get rid of that re-registration every five years. I think that a great hardship

401. You would allow them to register in the General Registry once and for all?—Yes, I think the existing arrangement a great hardship.

402. There was another mode suggested in print about that. Which would you prefer?—one is putting them in the position once for all of statutable mortgages, the other is to give judgment creditors a period, say of five years, within which to realize. Would you object to that?—Yes.

403. Dr. LONGFIELD.—Have you ever made a common search against names of persons—a hand search?—Yes, frequently

404. The names in the Indexes are put merely according to the first letter?—Some are in dictionary order, but it is only in the case of lands that that has been done.

405. Do you think it would facilitate searches if they were all in dictionary order?—Very much.

406. And don't you think that the present alphabetical order adds a good deal to the time of making a search now?—Of course it does.

407. For instance, if you are looking for Abbot, the first name in the list may be Atkinson and the second name Ahhott, and the fortieth name Abbott again—the same man; and till you go to the end of the list you don't know that you have got rid of the name?—Quite so

408. Do you think that is a part of the cause of the delay in making searches now?—Of course it must cause delay. The other would facilitate matters very much.

409. Mr. MADDEN.—Do you see any advantage in keeping up the distinction between a negative and a common search, or of keeping up the personal responsibility of the Registrar?—No.

410. Is there any instance, within your experience, of its having been availed of?—No.

411. The LORD CHIEF JUSTICE.—Do you think if there was no personal liability the work would be done so accurately or so well?—Certainly, if you have a responsible officer, such as would always be appointed to such a department

412. Mr. MADDEN.—Is the system of personal liability adopted in any other public office?—Not that I know of.

413. Mr. MELDON, Q.C.—Don't you think that the perfection at which the office has arrived was brought about by the personal responsibility of those over it from time to time?—I should be very sorry to think that officers would not do their duty whether they were fined or not.

414. It is not a fine, you know. The Registrar enters into recognizances and is personally liable to the amount of these. Would you propose to do away with personal responsibility in the case of the Registrar?—I don't see why he should be held more liable or responsible than any other public functionary discharging his duties.

415. Isn't it a great safeguard to the public having a man there who is willing to make himself personally responsible for his acts?—I think that any gentleman appointed there would secure the confidence of the public without that. He has a good staff under him too.

416. I believe you can make searches any day up to the very last moment that the office is open?—Yes

417. Have you made searches of that kind yourself?—I have

418. You have continued a search up to the closing of the office?—Yes

419. Does that system work satisfactorily?—I think fairly. I have not had occasion to do it for some years past, but it must be more or less of a scramble to see deeds brought in late. I never knew it to fail, however.

420. Ample facility is given for searching up to the very last moment?—Yes.

421. You were asked about the system of recording titles, now it has been said outside that there has been opposition to that by the body of solicitors—as a matter of fact is that so?—I don't think they have encouraged it.

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422. Have they gone so far as to oppose it actively?—I think so.

423. In all sales under the Landed Estates Court is it not the fact that the solicitor for the purchaser must get a document from him expressing his wish to have the property recorded or not?—No, it will be recorded unless he says no within fourteen days.

424. The solicitor must get a notice to that effect from the purchaser—that it is not to be recorded?—Yes, within fourteen days.

425. Has it been the opinion of those outside the profession—of clients I mean, that titles should be recorded?—No, but that they should *not* be recorded.

426. It has been said that solicitors have very actively interfered with their clients to prevent titles being recorded?—Very probably.

427. The VICE-CHANCELLOR.—Is the opposition to it as general amongst the clients as among solicitors?—I dont know that they have objected to it much.

428. Mr. MELDON, Q.C.—Why should the solicitors not approve of the system—is there any radical defect in the present system?—The old system of registration is one we all like and understand a great deal better.

429. The VICE-CHANCELLOR.—Better than the recording of titles?—Yes.

430. Mr MELDON, Q.C.—Can you point out any defect in the recording of titles system as now sought to be worked out?—I don't think I could do that, for I don't understand it.

431. And that is why, so far as you are concerned personally, you object to it?—Yes, and because I find that dealing with a registered title is injurious to the owner of an estate. I cannot borrow money with the same facility that I otherwise could, and I cannot settle it or deal with it in the same ready way.

432. Don't you think it is an expensive thing on an owner registering his deeds and then recording them in the Records of Title Office?—He does not do both—the deed is taken from him in the Records of Title Office; he never gets it.

433. Take the case of a deed dealing with other properties than the one to which the title is to be recorded, is not that an occasion on which it would be necessary both to register the deed and to have it recorded?—But the recorded deeds are from the Landed Estates Court dealing with one estate and nothing else.

434. That is in the present instance—I don't confine myself to merely recording Landed Estates Court conveyances; but suppose a man with estates worth £30,000 or £40,000 a year buys estates of £3,000 or £4,000 a year, and comes to deal separately with that, in such a case as that he would register all his deeds in the Registry Office to affect the whole of his property and record the title to the small purchaser in the Record of Titles Office?—I suppose so, but when you record a deed in the Record of Titles Office it is taken from you and kept there.

435. Then, in point of fact, if there is title recorded in such a case as I have taken of the smaller portion of the man's property he would have separate instruments—registering the one and recording the other?—Yes.

436. Mr ARMSTRONG.—Your opinion appears to be in favour of consolidation; don't you think great good will arise from consolidating the three judgment offices of the Common Law Courts—Queen's Bench, Common Pleas, and Exchequer—and establishing one?—Yes, and it is so, practically, now.

437. If that were done, don't you think it would be very easy to arrange for doing away altogether with the Registry of Judgments Office?—Yes. Practically, they are all, or nearly so, in one office now—Mr. Perrin's.

438. But, in point of fact, there are four offices?—Yes.

439. I want to know whether we might not have one instead of four, with great advantage?—You might, certainly.

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TUESDAY, JULY 9, 1878.

Mr. Henry T. Dix.

MR. HENRY T. DIX examined by the VICE-CHANCELLOR.

440. How long have you been a solicitor?—Since the year 1852.

441. Have you had much experience of the working of the Registry of Deeds Office?—Very considerable experience. My business has been chiefly in conveyancing, which has brought me constantly into contact with the Registry.

442. Are not you the solicitor to a building society in Dublin which has very large dealings in house property and land?—Yes, I have generally about sixty loans on hand.

443. Of course searches are required for all those loans?—Yes. I am also concerned for several landed proprietors, which brings me into general business.

444. Do you think it would be expedient to require a full copy of a deed, or a duplicate original of a deed to be deposited instead of a memorial?—I do not. Of course there are two ways of looking at the Registry, and one is to make it a Record Office for recording or enrolling all documents. Some think that desirable, but it does not seem to me to be the intention of the Registry Act; and it would, in my judgment, be undesirable. It would make the Registry extremely voluminous and more difficult of use if deeds were recorded *in extenso*. My own opinion would be decidedly against it.

445. Are you able to state what the wishes of clients would be as to having the entire of their transactions appearing in that way on the Registry?—Of course there are a certain class of transactions, such as settlements and deeds of family arrangement, which parties would not desire to see on the Registry in detail; but as regards ordinary deeds the effect and object of them are disclosed by the ordinary memorial.

446. You are aware that many deeds, not relating to land directly or indirectly, are now placed upon the Registry?—I am—improperly, I think.

447. What do you think of that?—I think no deed ought to be registered unless it relates to land. I think it is contrary to the purposes of the Registry Act to register others, and I don't see that it is at all desirable that the Act should be made use of for the purpose of registering deeds for the mere purpose of preserving a record of them. The Registry ought to be confined to deeds and instruments affecting lands.

448. Are you aware of there being practical inconvenience experienced and delay occasioned in searches by the putting upon the Registry deeds not relating to lands?—Certainly, and often it leads to the most serious difficulty in title. An act appears upon a search, which is put on as a general charge, and it turns up on the Registry, and frequently there is the greatest difficulty in explaining it. It gives rise on many occasions to complication and difficulty.

449. Does it not require a separate searching book, called the "General Acts Book"?—Yes, and in my opinion those "General Acts Books" and the "No Barony Books" ought never to have had any existence. Deeds ought never to have been received which necessitated such books being kept.

450. Would you consider it expedient to prohibit the registration in the Registry of Deeds Office of deeds

that do not specify some particular lands in the body of the instrument?—I would. I am aware of the difficulty in the way of that, and of the objection that is made to such a prohibition—that it would affect covenants to settle after acquired property. I have heard of cases of extreme hardship that have arisen from the present system in that respect It has been held, at least in one case, I am informed, that a covenant of that description was good as against a registered deed, which seems to me a very hard case, and contrary to the policy of the Registry Act.

451. There may be said to be three classes of deeds registered—One, those relating to lands, specifying them with the barony and county, in the body of the deed, as to which, of course, there is no question or difficulty, another, in which neither the county nor barony is stated, but which refer in general terms to lands; and a third, the class we have been speaking of that don't refer to lands at all. Now, as to the second class, those which refer in general terms to lands, as, for instance, "all the estates of John Doe in the County of Cork," or "all the estates of John Doe in Ireland," would there be any practical difficulty, do you think, in remedying a defect if it existed in that respect, in the deed, by supplying it by a memorial, or an affidavit, or a certificate endorsed on the deed or connected with it?—The difficulty, to my mind, in such a plan would be that it imposes a sort of judicial act upon the Registrar to determine how far an affidavit of that kind should be acted upon. Suppose a person coming in with a deed referring to lands in such general terms as you mentioned, and an affidavit stating that the lands of so and so were intended, I don't think it would be at all desirable to leave it to the Registrar to determine the matter in that way. I really don't see why the Statute of Anne, which requires that baronies and townlands should be stated, could not be enforced.

452 There may be, of course, cases where the parties have not the means of ascertaining the townlands, for instance there are deeds executed in an emergency where it might not be possible to ascertain the names of the lands, so as to specify them on the face of the instrument, and then might not what I have suggested be done?—That seems to be a misfortune to the parties interested in those particular cases of emergency, but I don't think the whole system of the Registry should be departed from, or made subservient to such exceptional cases.

453 Do you think it could be conveniently or safely remedied by allowing a memorial executed by one of the grantors to supply that defect in the deed itself?—I think a memorial, setting out the particulars required by the statute, executed by one of the grantors might be allowed

454. Would you extend that to a memorial executed by a grantee?—I would not, although, of course, that is done, you may say by the Act 8th of George I., c. 15, I think—which gives power to register leases on the execution of a memorial by the representative of the lessee. It is curious that you can register under that Act by the execution of a memorial by a representative of the lessee, and not by a representative of the lessor.

455. But is it not possible to register any deed upon a memorial executed by a grantee?—You can register it in the Registry Office, but whether it would be a good registry or not is another question. They would receive it there, however.

456. Is there not considerable inconvenience arising from the different alias denominations of lands upon the Registry?—No doubt, there is.

457. Have you had to do with searches where the same act appeared registered under a great many different names to the same piece of land?—Yes, different aliases are sometimes grouped together, and sometimes you find the lands under different names.

458. Does not the slightest variation in a name require a separate entry in the index—even if the sound be the same, but the spelling slightly different?—Yes.

459. Does that add much to the delay and expense of searches?—I don't think it does. If you have, for instance, Acts to affect the lands of "Tubbermore" registered in that name and as "Tubbermure," when the two are brought together there is no great difficulty in identifying them.

460. That is when the names have been arranged in order upon the hooks?—Yes.

461. But suppose they begin with a different initial letter?—That becomes more serious, and sometimes you have a totally different name—sometimes the Irish name and the modern one

462 How would you propose to remedy that?—Of course I am aware that a proposal has been made to require all deeds to be identified by making the Ordnance Survey the basis of registration, but from my own experience I would hesitate in doing that. I have seen great delay occur in ascertaining accurately the description on the Ordnance Survey map To those familiar with them, it can be done easily enough, but for people who are not, it is sometimes very difficult

463. But if you are dealing with the owner of the estate, he may be presumed to be acquainted with the denominations of his lands as stated upon the Ordnance Survey?—He knows where the lands are, but somebody must point them out on the map, and a stranger could not do that The person preparing the deed knows nothing about the situation of the lands—he only gets a description of them from some other deed, or from a third person, and if you gave him the Ordnance map he could not identify them on it On that subject, perhaps, you would allow me to mention that I have put forth my reasons against adopting the Ordnance Survey denominations in that way, in detail in letters that I wrote in the year 1862 to the *Irish Times* (*vide* post, p 47). That was when this proposition was first made of making the Ordnance Survey the basis of valuation, and if the Commission would care to have a copy of those letters I will leave it with them

464 Certainly; may we take this (copy letters handed in) as part of your evidence?—If you please I have gone into details there

465 Do you approve of the present system of memorials?—I do. It seems to me that these memorials are a medium between a mere naked entry of name, date, and lands which is suggested by some, and recording the deed *in extenso*, as is suggested by others.

466. Do you speak now of the statutable requirements for memorials?—No; but of memorials as used now.

467. Do not the memorials at present go far beyond the statutable requirements?—I am speaking now of the memorials as at present in use, which go beyond the statutable requirements.

468. Do you approve of that system, or would you consider it better to confine them to the statutable requirements?—I would not so confine them The present system has this advantage, that it often is the means of clearing up title—affording sufficient evidence to clear title. I have often found it so, when if I had only the mere requirements of the statute, I could not have done so The statutable memorial would simply have been of no use

469. Is that not however treating the registry as something different from the statutable operation of it, and making it more a matter of record?—It is open to that objection, but there are conveniences in both ways, and the present system is, upon the whole, a sort of medium between a registry of the entire deed, and the mere naked requirements of the statute.

470. Do you consider that any inconveniences arising from the present system of extended memorials are compensated by the advantages you have now mentioned?—Yes, I consider that the secondary evidence which they afford when deeds are lost or mislaid is a very material advantage

471. Do you speak of that in reference to the giving of evidence of a deed in court, or as supplying information for solicitors in dealings with property?—

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Rather in supplying information for solicitors dealing with title

472. Do you think it would be practicable or expedient to add to the present extended form of memorial a sort of abstract such as now appears upon the registry books?—I do.

473. To be brought in with the deed?—Yes; I advocated that in a paper which I read before the Social Science Congress in 1861, that the solicitor should bring in, in a short tabular form, with the memorial, an abstract giving the names of the grantors and grantee, the lands, the date, and the character of the deed, whether a conveyance, a mortgage, or whatever it may be.

474. And the consideration?—Probably, though that is not required by the statute to be included in the memorial.

475. Would you propose that that abstract should be used in the Registry Office for the purpose of indexing?—Yes. I propose that this short abstract—which might very easily be on a printed form, procurable at the stationers', and ready to be filled in—should be lodged with the memorial, and compared with the deed and memorial. There would be no loss of time in that, because you have only to put on another clerk. At present one holds the memorial, while another reads from the deed, and if you gave a third the abstract the three documents could be compared from the one reading. I propose that the abstract should then go straight into an alphabetical book, which would bring the Registry of Deeds up to the last moment. I intended to bring before you what to me appears to be a very serious fault in that respect now—the difficulty of finding how the Registry stands up to the last moment.

476. Have you a copy of the communication you made to the Social Science Congress?—I have not, but it was published in their transactions, and I could get the volume for you containing it.

477. Do you still adhere to the opinions you expressed in that paper?—I do. There is only one objection I ever heard made to what I proposed, and that has since been overcome. It was objected that the system would not bear the delay of the antecedent comparison of the deed and the memorial before they are received by the Registrar, and since then it has become the practice of the office to have that comparison.

478. You mentioned that you intended to bring a matter before the Commissioners in relation to this subject, what was it?—It was this, that I don't believe there is at present any security for a person wishing to search up to the last moment to ascertain that no act has been done in a given case. In fact, a matter is now under arrangement where a very serious error arose thus in my own practice. I was closing a loan of £2,000, and a party who had a mortgage on the property was to release it and then take a security puisne to mine. I was apprehensive of this, and was very careful to have a search made up to the last moment to see that there was no deed registered before mine, and I did not part with my cheque till I so ascertained. I sent a most experienced searcher—a person whose whole occupation is searching, and who knows his business thoroughly. He reported to me that no act appeared, and I paid the money. But when I got up the office search I found that the mortgage which was to have been puisne to mine was registered about an hour before mine. That was a case in which every care and caution was exercised, but owing to the arrangements and to the condition of the Registry, for the time that the index book is in arrear (generally two days), you have no safety in searching to ascertain acts up to the last moment.

479. Can you point out how it is unsafe?—Yes; in this way—the names' index book is generally, if not always, two days in arrear, and when you want to supply that time and bring the search down to the last moment, you are referred from one place to another. You go to one room and find the day sheets, on which the deeds are entered without order of any kind, then you are sent to another room where there are perhaps more day sheets, which is a very unsatisfactory kind of a search to make; and afterwards, coming nearer the time for closing, you go to a place where there are deeds that have not been entered at all. A parcel of these are beside a man at a desk, and he calls out the endorsement on them, which may, of course, be wrong.

480. Those are the deeds that have just come in?—Yes. Of course if you could sit down at a table and examine every deed there, you might ascertain with safety all acts done, but as a fact that species of search is very unsafe and unsatisfactory.

481. That is not a search made by persons in the office?—No, but by private searchers for our own protection up to the last moment. A negative search is always left open, it is only brought up to a certain day, and the private search is from that day forward to see what acts, if any, have been done. I still entertain the opinion that it is perfectly practicable to do what I have suggested—to have these abstracts brought in and an entry made from them instanter in a book available to the public, so that in a moment one could ascertain there whether any deed had been recorded up to within a minute or two or not.

482. I presume that that would only be possible if the system of abstracts was adopted?—Yes.

483. Do you attribute the difficulties you have spoken of to any default in the working of the office?—No, they are necessarily incidental to the present system, I think.

484. In reference to the registering of a deed are you of opinion that the affidavit of perfection should still be continued?—I am, but I think it might be amended.

485. Will you state your reasons for considering an affidavit of perfection desirable?—I think it is a protection against fraud. I don't think it would be right to put a deed upon the Registry against a man without any evidence of his having executed it.

486. Is it possible that without that protection a sham deed might be put upon the Registry?—Yes.

487. It is a safe guard?—Certainly.

488. But you propose to amend the form of affidavit you say?—Yes, I consider that that part which recites the delivery of the deed registered to the Registrar might be all dispensed with.

489. Is there any advantage derived from the insertion of the clause stating the delivery and the time of the delivery to the Registrar?—None.

490. Has not the same fact to be ascertained by the Registrar from his own information, independently altogether of the affidavit—the time of lodgement?—Yes, and suppose it is sworn in the Registry office that is required, but if sworn before a commissioner in Dublin, or in the county it is not required. It is mere surplusage. I have suggested the adoption of the form of affidavit that is given in the Act of third George IV. cap. 116, which prescribes the mode of registering English deeds in Ireland.

491. Mr. MADDEN.—You propose that that should be substituted for the form of affidavit now in use?—Yes, but I think all that about delivery and times of delivery to the Registrar should be omitted.

492. The VICE-CHANCELLOR.—Do you think it would be expedient to permit the affidavit of perfection to be made by any person acquainted with the handwriting and not confine it to one of the attesting witnesses?—I have considered that too and I think it would be very convenient, but I am afraid it would be very dangerous. It would certainly be very convenient, because now when you have to register old deeds it is difficult to find out the attesting witnesses. Sometimes both the witnesses are dead, and it would be very convenient to supply evidence by someone who knew the handwriting, but I am afraid it would be a rather dangerous practice to admit of. It is not like proving a deed in court which we can do now by any evidence of handwriting, because there the witness is subject to cross-examination and you can test his

evidence, but this being an *ex parte* affidavit it would be rather dangerous

493. Have you anything you wish to add as to the actual operation of the Registry now?—I would like to see the Registrar's certificate made final evidence of Registry.

494. I presume you mean conclusive as to all matters of form—all statutable requirements?—Of course—not as regards fraud or anything of that kind.

495. You are aware that there is an examination of the stamp upon every deed or memorial, at the Registry office?—Yes, when presented for registration

496. Is there any inconvenience occasioned by that?—Sometimes—but it is very seldom—the Registrar takes a different view of the Stamp Act from the officer at the Stamp Office

497. And what is done upon those occasions?—I think the Registrar generally defers his opinion to that of the authorities at the Stamp Office

498. Does it frequently happen that deeds are found to be insufficiently stamped at the Registry office, and have to be taken back to get additional stamps impressed upon them?—I never allow that to occur in my own practice I see that they are properly stamped before I send them to the Registry.

499. But is that so, do you know in the case of other practitioners?—I could not say as to that; for myself I endeavour to guard against objections on that score.

500. Would it be convenient, do you think, that all deeds should be taken to the Stamp Office, and examined there before being brought up to the Registry Office?—I think it would be imposing a very serious labour upon the Stamp Office if every deed was to be passed through that department for examination

501. Suppose that a moderate denoting stamp was provided?—Well, really if you ask me, I have not found practically any inconvenience on the ground of stamping. I think men generally become acquainted with the routine, and know what stamps are requisite for particular deeds You asked me whether I had anything else to say? I don't know whether it comes in here or not; but there is one matter that has caused me very serious inconvenience, and that is the condition of the law at present with regard to equitable deposits. That has become a very serious matter now. When deeds are lost the necessity of procuring evidence of their loss and so forth, as if there was no Registry Office at all, is very objectionable. I think it would be very advisable if something was done to settle the law in that respect by way of legislation

502. What would you propose?—That there should be some clear definition of what, I believe, was intended by the Statute of Anne, that not only no deed, but that no lien upon land of any kind should take precedence of a registered deed.

503. Mr. MADDEN.—Are you aware that Romilly's Act—the 13th & 14th Vic., c 72—made some such proposal?—No, I am not aware of that

504. The VICE-CHANCELLOR.—Are you acquainted with the different forms of indexes now kept in the Registry Office?—I am.

505. Do you think any improvement could be made in these?—I think if books in dictionary order were made available for the public, no improvement would be necessary in the books of the office Assuming, of course, that the question is as to the registry of deeds and not the registry of title, I think the present system is as good as you could have—if the names index books were in dictionary order. But it is a great loss that there is a period of ten years when you cannot have that advantage as the books are now. They are only decennially put in dictionary order, and suppose you are searching within the ten years from 1870 you must search in the ordinary alphabetical books. I understand that there are other books in dictionary order kept in the department but not available for the public

506. Have you seen the quinquennial indexes prepared in the office?—I have not, I suppose that they are the books which are not given to the public. I am of opinion that it is practicable to have current indexes in dictory order. I have heard it said that it was not practicable. I think it is only a question of waste of paper—a very minor matter.

507. Mr. MADDEN.—Don't you think that it comes to be known in a very short time what are the names that most frequently occur, and that, acting on such knowledge, the waste of paper could be reduced to a very small minimum in the course of time?—Of course it could

508. The VICE-CHANCELLOR.—Do you think it would be a public convenience to print the indexes?—The only convenience I see is that it would be giving a greater number of books for reference.

509. Don't you think a printed book is more readily gone through in searches?—No, I think not—the very legible handwriting in the Registry Office is quite as good as print Besides the indexes are on parchment, and I don't think you could print upon parchment—it would smear, and the printer's ink would be liable to get rubbed out from constant use

510. But for a public work of that kind would not printing on good paper be sufficient?—Yes, and it would give a greater number of books, which would prevent the delay which arises at present by finding that the particular book wanted is in use

511. And when a book became used out, as you suggested, could it not be more readily supplied by having a number of spare copies on stock?—No doubt.

512. Have you considered the propriety of preparing the lands indexes by a townland unit—opening a seperate entry for every townland against which a recorded deed appeared?—Do you mean simply confining it to that townland?

513. Yes, confining it to that particular townland?—I never heard of that proposal before, but I did make suggestion for a sort of registry of title within the Registry of Deeds Office.

514. Have you seen the plan published by Colonel Leach in his book?—I think I did see it some years ago It was on the basis of the Ordnance Survey.

515. Yes?—But that introduces the question again as to the propriety of making that the basis of registration

516. You see there (Col. Leech's book) the plan of lands indexes proposed by him?—Yes, I remember that now.

517. There you have, for instance, the townland of Ballynakill in a certain parish in the County Waterford, and every act affecting that townland appearing on that particular page?—I don't think that would be a more convenient process than the present system. I suppose all the commissioners have seen the lands indexes and the names indexes in the office, and I think you will find them as easy of reference.

518. What difficulties do you think there are in the way of making the Ordnance Survey the basis of registration?—It is rather a large question to enter upon, and if you allow me I would refer to the letters I have handed in, which go into details upon it.

519. You are aware of the way in which the Board of Works memorials are registered?—For loan advances?—

520. Yes?—I am aware of it.

521. Are they not based upon the Ordnance Survey?—They are, but I don't think they form a precedent for ordinary transactions, and for such a variety of transactions as we have in dealing with lands. There is always a surveyor at the Board of Works who examines the lands and reports upon them—in fact they require his report, and, therefore, he knows exactly the lands that are the subject of the transaction, where they are on the ordnance sheet, and all about them.

522. Would there be a difficulty in doing that in private practice?—I think there would be great difficulty in private practice.

523. I presume you have seen the tenement valuation, made by the commissioners of valuation?—I have.

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524. Is not that also prepared from the Ordnance Survey?—It is.

525. In that there appears every denomination of land—every townland and every holding upon the particular townland, all set out in order, according to the Ordnance Survey?—Yes, but that is also made, you know, under the inspection or management of officers who have nothing else to do, but to address themselves to that particular matter, and who are familiar also with the Ordnance Survey and the townland valuation.

526. Would a reference to those books of valuation not enable solicitors to prepare their memorials or abstracts for registration upon that basis?—Judging by my experience of the townland valuation in the Landed Estates Court I don't think it would, because the townland valuation is made at a particular period, and tenancies are ascertained and the applotment made, and the survey corrected then, but we know that in estates they are continually changing—part of one man's tenancy is thrown into another, or a man dies and some one else gets his farm, or it is thrown into a larger one. There are constant changes which cannot be conveniently noted upon a record of that kind.

527. But every one of those portions of farms must be on some given townland?—No doubt.

528. And if the townland was made the unit of registration, taken from the Ordnance Survey, every one of those acts would appear under the entry of that townland?—Are you dealing with the fee or with the sub-interests?—

529. With all interests?—Because, when you come to the sub-interests, what is a convenience in dealing with the fee is an inconvenience in dealing with them. They are generally of only a portion of a townland, and they may have their separate distinctive descriptions, which are much more easily followed in dealing with the tenant's interest.

530. But confining yourself to a particular townland, would it not be a convenience to have every act affecting that townland, both fee and sub-interest, shown on one page of the lands index?—I think it would be more embarrassing, especially in dealing with tenants' interests which are now largely dealt with. Say that there is a large townland with a number of tenants upon it, and that each tenant has dealings with his own interest—take the townland of Ballynagall, say—each tenant gives his own portion some distinctive title to describe it. If you look at the registry now you follow that out on the books by the distinctive title, whereas if you limit your description to the main townland you get everybody's title all under the one head and acts by A, or the registry affecting the same lands as acts by B, having a different interest altogether, you thus complicate matters greatly. In the same way with suburban districts—a whole district is built upon, and one man calls his house by one name, "Zion house," say, and another by, say "Beach lodge," or any other name you choose, which identifies those premises, but if you enter them all under one townland how are you to identify those separate holdings?

531. Have you seen the lands' indexes for towns?—I have.

532. In that case they are all kept separate?—Yes.

533. By streets, the number of the house, and so forth?—Yes, but in the case of suburban districts, before they are corporate towns, you must treat them in the county, and at present they are distinguished by those different descriptive titles.

534. It is clear the townland unit would not do for that?—No, it would only add to the complication and difficulty very much. Even at present I have often difficulty in dealing with property in suburban districts. Where a man takes a strip of land, builds upon it, and calls the houses by different names, or even gives a new name to the land he has taken only, it is hard to distinguish it all—it is only to be done by observing the boundaries on each side.

535. Is there considerable delay as to getting searches out of the office now?—I think there is more delay than there ought to be; if they had more hands they might be quicker. It should be more rapidly done than it is undoubtedly.

536. Do you attribute that to any want of energy on the part of the officials, or does it arise from want of having sufficient hands employed?—From want of having sufficient hands employed. If there was a larger staff we could get returns to requisitions searches much more rapidly.

537. Is it not the fact that a great number of searches now from which loans are made, particularly, in small transactions are conducted by private searches?—Yes, that is a common practice in small transactions.

538. What is the reason of that?—The greater facility in having searches made at once and saving time. If I could get a search as rapidly—say the following day, for small transactions, or even two or three days, I would be satisfied with the official search and prefer it.

539. In the case of private searches of course you have not the responsibility of the office to rely upon?—No.

540. Nor the personal liability of the registrar to guarantee you?—No, and I may add that very often even in large transactions with the banks in Ireland are carried out on hand searches. Very large amounts are advanced on hand searches, I believe, they found in fact that it would not suit their business to wait so long as is required for the official search.

541. You know of the system of making exceptions in requisitions for searches?—Yes.

542. Do you approve of that being continued?—It is only a matter of saving the expense that induces people to adopt it, but it would be better a great deal that it was discontinued. An Act may be wrongly excepted, and sometimes it is very troublesome.

543. Are you aware whether there is the same trouble and delay in searches in the Registry Office caused by an exception, as by the actual Act itself?—There is quite as much because the searcher must take notice of the exceptions. Sometimes, too, there may be some irregularity in the description of the deed excepted, and that causes a great deal of trouble and complication.

544. If there is the slightest difference between the exception and the deed upon the Register, will the Registrar act upon the exception, or return the deed as an act?—He will return the deed as an act if it does not exactly correspond with the exception.

545. In every particular?—I think so.

546. The stamp duty on searches now is, I believe, only one shilling for each act returned?—Yes. It used to be three shillings for each act.

547. Would there be any objection, do you think, to doing away with exceptions altogether, except those objections grounded upon the additional charge of one shilling for each act?—I think it would be much better to do away with them.

548. Dr. LONGFIELD.—You would not permit the reception of a memorial executed by a grantee only?—No.

549. What is the objection to that?—Because if it is to be an act binding the grantor—charging his estate—I think it is only reasonable to have some evidence of his having executed it.

550. I ask only for the purpose of registration—how does that charge his estate?—I don't say that the act of registration does, but it would be returned against him if he was dealing with his property subsequently—it will appear on a search against him, and if any length of time has elapsed between the registry of the deed and the transaction on hand, it would be difficult, perhaps, to set matters right.

551. You would not permit it even for the purpose of stating the Ordnance Survey name of the lands, or supplying defects in the deed?—No; unless there was something to connect the grantor with it, in which case I see no objection.

552. Would you allow registration on the affidavit

of a man who knew the handwriting of the grantor to the deed, and saw the grantee executing it?—No, because, as I before remarked, there is no way of testing him

553. You stated that, for the purpose of having the dictionary indexes up to the present time, it would be necessary that the abstract of the memorial should be lodged with the memorial?—Yes.

554. Would it not be sufficient if the names were taken from the memorial?—No, because in the Registry Office the persons dealing with the memorials are strangers to the entire transaction, and they would have to read an instrument through to know who are the parties, whereas the solicitor preparing it would find no difficulty at all in preparing an abstract to lodge with the memorial.

555. Suppose John Ffrench was the person you were searching against, would it not be sufficient to have that on the index?—Yes, if he was the sole grantor in the deed. At present, when a deed is brought in with a memorial, one officer holds the deed and another the memorial for comparison, but all they look to see is that the deed and the memorial correspond in the particulars required by the Act. There might be an assenting party who might not be a grantor, and I would submit that all assenting parties should, on the Registry, be treated as grantors, whether making any conveyance or not.

556. Do you remember a case in which a grantee lost his estate by being made a grantee in trust of it?—No; I do not remember such a case.

557. Mr. MADDEN.—You said that you would not admit a memorial executed by a grantee, of course you meant that no matter who executes the memorial you must have evidence that the deed was executed by the grantor?—Yes

558. You would not accept evidence of execution by the grantee?—No

559. With reference to affidavits of perfection, do you attach much importance to them?—Yes, I do.

560. Are you aware of a suggestion made by the English Real Property Commissioners which would remove some of the expense of registration, that wherever the execution of an instrument is attested by two witnesses whose names and descriptions are given, such instrument should be admitted to registration, within a year from its execution without any affidavit of perfection?—I believe some such recommendation was made

561. Would that be safe and provide a safe-guard sufficient to do away with the necessity of this affidavit?—I think not, and I don't see what mischief is done by the present system, provided the affidavit be made more simple, as I have already suggested

562. You are aware that the existence of a great number of *aliases* leads to the difficulty of keeping the lands' index written up, and also to the complication of searches?—Yes

563. Is there any other course but either continuing the present system or adopting the ordnance townlands—or streets in the case of towns—as the unit?—I don't think there is any medium course, you must either have the one or the other—you must either make the ordnance denominations an arbitrary requirement, or give the freedom of *aliases*

564. From what you said about sub-interests, and that there would be an inconvenience, I presume you mean that in searching there would be an inconvenience?—An inconvenience rather in dealing with the title.

565. I suppose your objection is this, that if I were searching, for instance, against Edward Smith for acts affecting Ballycastle, that there might be acts returned affecting other interests in the same townland?—Yes.

566.—And that they would all appear in the lands' index under that heading?—Yes.

567. But the ordinary search being made against names and lands, is not the probability very small that there would be more owners upon that one townland of the same name?—Of course.

568. Then you would not be embarrassed with acts with which you would have nothing to say, because the chances are that you would not have another Edward Smith in the townland?—If the general acts remain as they are now that would not be so.

569. But assume that the general acts are done away with, and that *aliases* are done away with, and that the instrument is registered against the townland?—I think the present system the better of the two. The other would be extremely inconvenient. If I have premises suppose in a suburban district known as Roseville, part of the lands of Rahanagh, that conveyance, by the alternative mode of registration suggested, would be entered against the larger denomination. It would be adding to the existing difficulties and complications.

570. As to townlands in the country, do you think there would be any great inconvenience arising from adopting the Ordnance denominations?—I do, and moreover, I think the inconvenience from the present system is greatly exaggerated.

571. But don't you account for the delay and difficulty experienced in searches by the defects in the existing system?—No, I have stated that I think it arises from the insufficiency of hands to make the searches.

572. Isn't the Lands Index Book in arrear owing to the nature of the system itself?—It is in arrear, but why I don't know. It need not be so long in arrear at all events as at present if the staff was large enough. But most important searches in the Landed Estates Court are made from names only, and if the names index is properly kept the lands index is useful only for a particular purpose, and that is when you are investigating a title you are ignorant of, or that you wish to trace from one to another.

573. There are some instruments that would not appear on a names search only, but undoubtedly one use of the lands index is the rooting up of title, isn't another use checking the names index?—Of course, but the names index should be correctly kept. In the Middlesex Registry they have no lands index.

574. Would you propose to do away with the land indexes?—No, for the reason I have mentioned—I think they are most useful in searches for title—what we call fishing for title.

575. The VICE-CHANCELLOR.—At present in a great many cases of searches the search must be continued to an indefinite period after the death of the party searched against?—Yes

576. Do you find that an inconvenience?—A very great inconvenience

577. Do you think it might be remedied by limiting the time within which searches might be made after the death of the person searched against?—I would be very glad to see such a limit made. I have known searches directed for a period of fifty years from the death of a person.

578. What would you think a reasonable time of limitation?—Five years, I think

579. Isn't the period of five years from the death of the person searched against constantly adopted as a limit in practice?—It is sometimes ten years, and sometimes five.

580. But these are only limitations of prudence, and no effectual safeguard?—Yes. I myself have hesitated to make a requisition for a long search of fifty years.

581. Frequently it would be deemed necessary to bring down your search to the next recorded deed affecting the estate?—Certainly, a purchaser is entitled to that

582. You have had a great deal of experience in the security of judgment mortgages?—Yes

583. Do you think they are satisfactory?—Upon the whole, I do. The principle of judgment mortgages has this advantage, if judgments are to be charged upon lands at all—it obviates the necessity of a second office and a second search.

584. Have you considered the question whether judgments should cease to be a security against lands at all——?—I would be disposed to leave the same powers as exist now; they are more requisite now

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than ever, as another remedy that creditors used to have has been taken from them

585. What remedy do you speak of?—Arrest for debt And even the execution of a writ of *fi fa* is getting every day more and more useless, for people manage to avoid such executions by bills of sale.

586 Are you aware that in England judgments do not affect land till the writ is issued, returned, and registered?—Yes, the same as in Ireland before Pigot's Act.

587. Do you think it would be an improvement to adopt that system?—No; I prefer our own system. The fact that there is no land registry in England, makes a great difference Here we have got such a ready means of attaching land by an affidavit of judgment, that it is totally different.

588. Have judgment mortgages proved satisfactory securities?—I think people take them only when they can get no better. No one would dream of lending money on that security alone, now.

589. Then as a security upon which money was lent you would not approve of them?—Certainly not.

590. A great deal of litigation and dissatisfaction have arisen from the system?—Yes.

591. Then would you use them merely as an execution?—Merely

592. And would you limit them to any period after being registered?—No; I think the present system by which a debtor can have them discharged and his estate revested, is the most convenient, I think the holder of a judgment mortgage is entitled to some consideration, and if he registers it he ought not to be compelled to put it into execution

593. That converts it at once from being an execution into being a security?—Of course, but it is a security which he has been obliged to obtain for want of payment of his debt or claim

594. Would it be a disadvantage to a creditor if he was bound to enforce it, say within a year after registration?—It would be hard upon the debtor—it might involve a sale of the debtor's property.

595. Would it not lead to this, that if the debtor would not pay within a prescribed time, other proceedings would be taken against his lands or he would have to give a security of a more satisfactory nature against them?—I think that should be left a matter of arrangement between the debtor and the creditor or holder of the judgment mortgage.

596. Does the registration of judgment mortgage clog the registry of deeds?—It sometimes gives rise to awkward complications by mis-registers Sometimes a judgment creditor registers his mortgage against lands that the man who is his debtor does not own.

597. Would you allow a judgment mortgage to be registered generally against the lands, say of A. B, a debtor?—No, it is opposed to my views as already stated. (*Vide* answer to question 450)

598. Is there not much more liability to make mistakes about the registry of judgment mortgages as affecting land than any ordinary security?—No doubt, because the judgment mortgagor has not the ordinary means of information I think there ought to be some legislation to get rid of all technicalities in affidavits.

599. Mr MADDEN.—Have not the recent decisions got rid of those practically?—Well, the affidavit is still verbose as ever.

600. The VICE-CHANCELLOR.—A judgment creditor can register against any land that he swears belongs to the debtor?—Yes, or that the debtor has disposing power over.

601. And that is frequently done without any adequate knowledge of the debtor's estates?—Yes

602. And without any means of obtaining proper and adequate information?—Yes, but if a creditor makes the affidavit and the debtor has not the disposing power it is useless.

603. But in years to come if these remain charges against lands, with all their inaccuracies they practically cause inconvenience in clearing title?—They may, but such acts are more capable of explanation than others that you find against you, for you can refer back to the original judgment.

604. But how do you find from that what lands a man had?—If you find that the man had only certain estates and that the judgment is entered against a different man and not the man who has the estate, it would explain the act

605. Does not that, after a lapse of years, create considerable difficulty?—No doubt, some

606 And would not that be got over by limiting the period during which a judgment mortgage would be operative?—No doubt. We know however that the system of re-registering judgments every five years has been found very troublesome and inconvenient.

607. Do you disapprove of the system of re-registry?—I disapprove of the system of keeping alive these judgments as they are—judgments before July, 1850

608 Do you think it would be an advantage to have the different offices of registration consolidated?—I think it would be of great advantage and I see no reason why the Judgment Office should not be abolished.

609. And as to the enrolling of disentailing deeds in Chancery?—That might be abolished too.

610 And transferred to the Registry of Deeds Office?—Yes.

611. Now as to the registry of tenants' improvements and charges of that nature at present registered in other departments, would you approve of those being brought into the general registry also?—Yes

612 Everything that could create a charge upon land should be registered in the one office?—Yes, and I go further—I think that the conveyance by sheriff of a chattel real seized in execution should be registered there also At present it is most inconvenient to have to search in the Sheriff's Office up to the last moment. In England there is some affidavit of the kind registered in the Court of Common Pleas there

613 Have you had any experience of the recording of title?—I have

614 Do you approve of the present system?—I do not; I very much disapprove of it

615 Will you state your reasons?—I think that the requirements of the system necessary to insure to each transaction an indefeasible title, are obstructive. That is, a hindrance in transactions of recording title, and furthermore, it is unequal to complicated transactions. As long as you have simple cases it is all very well, but for complicated cases it is unsuited

616. It has not been a success in this country?—By no means In any experience I have had of it, it has been extremely inconvenient.

617. Have you known of any titles being voluntarily recorded in this country?—I have heard of but very few. As a general rule, the titles recorded are those from the Landed Estates Court in which the seven days' notice is late. I had a case myself a short time ago of a client whose title was recorded against his will in that way, and he was very much annoyed about not getting his deed.

618 Is this objection to the recording of title a solicitor's objection or an objection from their clients?—I don't think the clients know anything about it I don't think they have much knowledge of the Recording of Titles Act.

619. Is the objection of solicitors based upon any personal advantage to them, or upon what they consider to be the advantage of the estate?—That is a question which it is very hard for me to answer. I can only give you my own experience, and I see in it great danger and great inconvenience.

620 And is your objection grounded upon the interests of your clients?—Entirely. I have had some transactions in the recording of title, and my experience is that in small matters the cost is just as much as it would be in the Registry of Deeds Office.

621 Do you find objections made by lenders to advance their money upon recorded titles?—I have made such objections myself. In some instances I have

required the title to be taken off the record. That was where there were several items, some registered and some recorded, and I thought it unsafe to leave a portion of the property on the record. Perhaps you will allow me to mention an instance of record of title in my own experience, where a property was bought in the Landed Estates Court and partitioned amongst three owners. One was a nobleman, I forget his name—it is ten years ago—but he resided in Paris and was very eccentric. The original conveyance had a schedule to it of tenancies, and the partition deed did not contain such a schedule, it only described the proportions of the estate, and the Recorder of Titles refused to record the partition deed because the schedule was not to it. The solicitor who preceded me in the case, complying with the requirements of the Recorder of Title, had a new deed specially prepared, attaching a schedule to it, and we got two of the parties signatures; but the eccentric nobleman, I have mentioned, would not sign it, and after one year and three months I had to apply to the Landed Estates Court to allow the original deed without the schedule to be received, and that was done, but fifteen months were lost. I have another case of a recorded estate now, where a client of mine died, having devised his recorded estate to trustees for sale. One of the trustees is an officer in India, and I cannot record title in the names of the *two* acting trustees without a disclaimer from him, which would cause much delay.

622. Mr. MADDEN.—You have expressed yourself in favour of consolidating offices, and against the requirement of re-registration every five years; in the event of the offices being consolidated, how would you propose to deal with the considerable number of old judgments now existing?—I would propose giving them five years to register as mortgages.

623. As against specified lands?—Yes.

624. Mr. WALSH, Q.C.—How could you do that in the case of an old judgment affecting a family estate—is not that regarded as a very good security now?—Yes; now it would be regarded as a good security, but I would propose that it should be registered as against the lands.

625. Against what lands?—Against the lands of the original debtor.

626. Mr. MADDEN.—Is not it very well known in the case of all those old judgments what lands they affect?—Certainly.

627. And there would be less practical difficulty in requiring them to be registered as against specified lands than in the case of modern judgments?—Yes; and even if the person against whom the judgment was originally obtained acquires another property, why should he object to that being specified.

628. Mr. WALSH, Q.C.—The original debtor may be dead—in the case of many of these old judgments he is?—Of course death closes the door, and you cannot register then against any property but that possessed by the conusor at his death.

629. Mr. MADDEN.—Have you seen an alternative suggestion put forward that a period of five years should be given to the holders of old judgments to realize them or to get a new security by deed?—What I say is practically the same thing, because if he gets a security by deed there would be no occasion for his registering a judgment mortgage.

630. Dr. LONGFIELD.—You would limit a search generally to five years after a man's death?—That is more a matter of discretion, but it seems to me that the rule would be a good one.

631.—Would you limit that by saying that it should be impossible to register a deed five years after his death, or only to make a search?—Both; if you limit the period of registration to that time it would be in aid of the other.

632. You are in favour then of preventing any deed being registered more than five years after a man's decease?—I am.

633. Mr. WALSH, Q.C.—Would it not be better then not to allow any deed to be registered more than five years after its execution?—That is a different thing. I would not prevent the registration of any deed if the man is alive.

634. Mr. MADDEN.—Would not that necessitate an inquiry into the time of the man's death?—Yes, and it might prove highly inconvenient.

635. Mr. WALSH, Q.C.—If every deed was to be registered within five years after execution, the public would know that, and you get rid of the difficulty about the time of the man's death?—If the party is alive I would not prevent registration.

636. Dr. LONGFIELD.—You would have to search at all events if he was alive; it does not add to the length of the search?—No; the search would be only limited to five years after death.

637. Mr. MADDEN.—After the death of the grantee? After the death of the person whose estate is affected.

638. After the death of the grantor?—After the death of the grantor in a deed to be registered.

639. Supposing then a deed appears on an abstract of title of the year 1850, "A. B." to "C. D.," and "A. B." has parted with his estate by registered deed, you hand your searches to guard you?—Oh! the registered deed would shut the door there.

640. The VICE-CHANCELLOR.—The difficulty only arises in the case of a man not having executed a registered deed?—Certainly.

641. And in that case the probability of his having executed an unregistered deed continuing down to anytime during which it might be registered, makes the difficulty of the search?—Yes.

642. And that is the difficulty you want to remedy?—Yes.

643. Mr. WALSH, Q.C.—What would you do with wills?—The registry of wills?

644. Yes?—I would like to see them registered after death.

645. Would you limit the time during which they might be registered?—Yes; the same limitation with regard to registering other deeds might be sufficient.

646. Five years?—Yes. As a fact wills are not registered now practically.

647. About judgment mortgages, have you had much to do in taking securities on them?—No, I don't lend on them.

648. You don't think it would be well to compel parties to enforce the recovery of their debts?—All arbitrary requirements, requiring a man to realize his debt within a limited time, &c., are calculated to work great hardships. By the omission of the solicitor perhaps the necessary act is not done, and then he is ruined—he has lost everything. I think it ought to be left a matter between the debtor and the creditor.

649.—But the debtor knows nothing about it perhaps—the judgment is registered against his back?—He knows the judgment is obtained, and he can ascertain at any time whether it is registered as a mortgage.

650. Have you ever considered the number of small debts which are registered and registered as mortgages, and known nothing about?—I think that is a thing that ought to be limited, but, at the same time, what is a man who has a small debt to do.

651. The remedy is by going into the Bankruptcy Court—the jurisdiction has been extended there?—But you cannot arrest for debt.

652. No, but you can make the debtor a bankrupt, that is the object of the Bankruptcy Act?—Very often you cannot realize by execution either, because the common practice now is to cover everything by a bill of sale. That is the common return now to an execution.

653. Mr. FINDLATER.—And you could not make a man a bankrupt unless the debt was £40?—No.

654. And would it not be a great and serious disadvantage to small creditors to interfere with existing remedies open to them?—I think so, you might limit the costs on small judgments of mortgage. At present the full costs are chargeable, and these may be excessive, having regard to the amount of the debt.

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655. Is it not your experience that these instances in which small creditors would be deprived altogether of their debts but for these judgment mortgages, where owners of property have gone abroad, and their estates are being sold in the Landed Estates Court?—Yes

656. I think you said that there was a certain inconvenience in these judgment mortgages clogging the registry?—Yes

657. Don't you think that the balance of convenience is in favour of retaining them?—I do

658. The VICE-CHANCELLOR.—Are you aware that in England a creditor by whom land has been attached by execution on foot of a judgment, and which is registered, may, on application to the Court of Chancery, obtain an order under the 27th & 28th Vic., cap. 112, for a compulsory sale?—I was not aware of that.

659. Do you think that a remedy of that kind would be efficacious in substitution for judgment mortgages—power to apply to the Chancery Division for a compulsory order for sale?—To the Landed Estates Court

660. That is a branch of the Chancery Division now?—Well, my experience of a judicial sale in the Landed Estates Court is that the process is sometimes quite too expensive for small transactions So much do I find this to be the case that when acting for a building society I caution the parties proceeding that they must be answerable for the cost if they go on with a sale there when we have a cheap and ready way of realizing by power of sale I can generally sell small premises at from £12 to £20, and the lowest cost in the Landed Estates Court is from £60 to £70.

661. Mr. FINDLATER.—What is your reason for disapproving of the re-registration of judgments?—I think it makes a rather arbitrary requirement which by a little carelessness may result in a serious loss to innocent parties I would propose that they should be registered as mortgages against land, within say five years.

662. Mr. MADDEN.—Registered in the general registry?—Yes.

663. And you would abolish the separate registry?—Yes.

664. The VICE-CHANCELLOR.—Have you any other suggestions to make now?—I was going to make some suggestions with regard to the form of memorial I think there are different things necessary that might be dispensed with, for instance the address to the registrar, and the insertion of the hour of registry now required in the case of affidavits sworn in the registry office. A form of the affidavit of perfection might be added, I think, extending the registry to the re-acknowledgment of deeds The form given in the Act 3rd George IV, cap 116, is sufficient. I think too that the seal to memorials might be abolished, I see no value in it, and I would propose that all memorials should be of a uniform size for binding, and that they should be accompanied, as I have already stated, by an abstract, prepared by the solicitor who knows the transaction, giving the information shown by the abstract book, and that the abstract should be compared at the same time as the deed and memorial which will cause no delay and will only involve the employment of a third comparing clerk. If the abstract is incorrect it can be corrected, not being a certified document. From the abstract I suggest that an immediate entry should be made in an alphabetical book, the moment the deed has passed the registrar, containing merely the name of the grantors and the date of registry, so that by reference to that book it could be ascertained with certainty to the last moment whether an act has been executed by and registered against the party searched against, which, as I explained, cannot be done now. I propose instead of the present system of date and numbers that deeds should be *registered numerically*, the books to contain a printed column of figures into which the entry is made and from which the deed takes its number, that is, the registry book should have numbers down the sides and as a deed is entered opposite a given number the same number should be put on the deed, there are a great number of deeds registered in the year—probably 15,000, and the numbers may come to five figures but never more Then instead of having a deed registered on such and such a day the endorsement would be simply "1878—No. 54,605," or whatever the number is Another thing I would suggest is that there should be improved accommodation in the Registry Office—I think the present accommodation is utterly inadequate to carry on the business of the department.

665. There is a searching room for land searches perfectly inadequate?—Yes, and the place you go into to register a deed is like a sentry box. Then the certificate on the back of a deed should be in simple form—this deed was registered in the Registry Office, on such a date, and signed by the officer. You don't want more.

666. You would not require the hour and the minute of registration to be included?—Certainly not, it is quite useless Once upon the registry, the registry of a deed should not be open to question on account of any irregularity in the antecedent statutable requirements. Provision should be made for registering probates, intestaries and marriages so far as they affect the ownership of lands. Disentailing deeds and all deeds now enrolled in the Court of Chancery should be registered *in extenso* in the Registry Office instead. No crown bond, recognizance or *lis pendens* should be a charge against land unless an affidavit similar to that now required for registering judgments, is lodged in the Registry of Deeds Office. No conveyance of a chattel real by the Sheriff under an execution should be valid unless an affidavit of such chattel real having been seized in execution, is lodged in the Registry of Deeds Office. I would also suggest that the form of affidavit of perfection, prescribed by the 3rd George IV, cap 116, striking out the part stating delivery to the registrar, should be used in all cases And, further, I think that the question of priority between unregistered securities and registered deeds should be set at rest by legislation There is one other matter I would wish to mention—I made a suggestion in the year 1874 to have *a registry of title within the registry of deeds office*, and, if the Commissioners will allow me, I will leave the substance of my suggestions on that matter with them—whether it might be considered worth considering or not It is in a letter to the *Irish Law Times* (*vide* post p 52) There I made a suggestion which I consider practicable, by which a registry of titles could be kept in that office—that is a person coming in with a root of title might register that title quite apart from the registry of the deeds as at present A folio page might be opened for the title, so to speak, and every deed lodged affecting those lands, could be entered by the number of the registry, all going to the one account as it were At present we go to counsel, he directs searches, and then when they come to hand they go back again to him, whereas if my proposal were adopted a copy of that record might go to counsel in the first instance with the title and he could act on it which would save delay.

667. Mr. WALSH, Q.C.—Do you propose to confine that to fee simple estates or to include leaseholds?—Well, the chief difficulty is dealing with sub divisions. That is a very serious difficulty in the recording of titles, and it would be also in my scheme.

668. Mr. MADDEN. Isn't your scheme somewhat like that proposed by Mr Duval?—I never saw his

669. Mr. ARMSTRONG.—Does it not frequently occur in practice that because of some informality in the memorial a deed is sent back from the Registry office?—I never had a deed sent back for such an informality after it had been lodged since the antecedent comparison was adopted

670. But it is possible that such a case could arise?—I don't know why it should, if the memorial contains the statuteable requirements and is ascertained by

comparison to agree with the deed, it ought never to occur

671. I know that it does occur and my question was pointed to this—might it not be a very great boon to have some intermediate process of Registry pending the curing of a mistake?—A provisional Registry?

672 Yes?—To save priorities

673 Well, most serious difficulties might arise through a mistake?—I must say I never had a deed sent back under the present system

674 Mr. FINDLATER — Suppose a deed were executed in England, when it comes to be compared here the clerk might observe some mistake and return it?—Oh! that might occur before it goes to the Registry, but I understood the question to refer to a return of deed from the Registry itself after it has been received.

675. Mr. ARMSTRONG —Yes, might not some technical mistake or flaw be discovered in a deed which would occasion its being returned from the Registry two or three days afterwards?—No, if it cannot be registered it is returned at once by the comparing clerk

676. Suppose that on examination in the office there is something found to be incorrect, isn't there a regular printed form sent out on such an event by the Registrar?—I have experienced that frequently under the old system, but never under the new, and I register an immense number of deeds. It used to occur before on the antecedent comparison

677. The VICE-CHANCELLOR — The comparison is made now immediately before the deed is handed in for registration?—Yes, and formerly it was done after the deed was received.

678 Now a deed is not entered in its numerical order for registration until that comparison is gone through?—No.

679 And the time that you refer to when you got deeds back, was under the old system?—Yes

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EXTRACTS from LETTERS referred to and handed in by Mr. H. DIX as part of his Evidence.

JULY 9, 1878.

REGISTRY OF DEEDS IN IRELAND

No. (1).

9, Upper Gardiner-street, March, 1862.

TO THE EDITOR OF THE IRISH TIMES.

SIR,—Will you permit me, through the medium of your journal, to express my dissent, as a professional man, from the opinions expressed in the report of the Sub-Committee of the Incorporated Society of Attorneys upon the above important subject . . .

The report follows, not only in arrangement but in *substance* the pamphlet published by Colonel Leach upon this subject. . .

The first suggestion of Colonel Leach, and endorsed by the Committee, is a more uniform and systematic mode of drawing the memorial for registry . . . For my part (and I think most of my profession are of the same opinion) I do not see how it is possible to compel greater uniformity in memorials than is enforced by the statutes at present in operation relating to the registry of deeds It is quite true that the memorials are various in their substance, because the deeds which they memorialize are also various, and if the memorials are to be correct abstracts of the deeds to be registered it is impossible to attain any greater degree of uniformity than there exists at present.

The next and more important point of reform referred to by Colonel Leach, and also endorsed by the Committee, is the substitution of a printed for a manuscript registry I confess I was myself much surprised when I heard of the committee being of the same opinion as Colonel Leach on this matter, and am still at a loss to understand by what process they have come to the conclusion expressed in their report on this subject. Taking the estimate which I understand Mr Thom, the Government Printer, has made for setting up the block from which the entry is to be printed, and which, in the case of a short entry, he professes to be able to do in about *half an hour*, I cannot understand how printing will be more expeditious than writing To write a similar entry would not take more than four or five minutes at the outside, so that, in a short case such as I have mentioned, the entries of the deed might be written into the books of the office before the block would be in a condition to be printed But it may be said in long entries, which have to be entered in many places, on account of the number of townlands in the deed to which they refer, there will be a great saving of time But remember, these long entries will take the longer time to set up, and in some instances they will be too long to fit at the place in the book where they are to be inserted, and the block will have to be broken up again in order to print the residue of the entry on the next page There is no doubt that the mere process of impressing the type on paper or parchment is ordinarily more rapid than writing it, but in this case the type must be placed in *an exact spot*, upon the page of a *bound volume*—a process which, if practicable at all, must be conducted with the most extreme care, as otherwise the impression might overlap or obliterate the last entry, or be printed in a wrong place

By the admission of the report, the details of the printing department "necessarily depend upon the application of mechanical arrangement for the daily printing the Index Books" In fact, I believe I am correct in stating, that no such "mechanical arrangement" has existence at present, and that until the inventive genius of some clever printer, stimulated by a Government contract "looming in the distance," discovers such a contrivance, this "mechanical arrangement" is *in nubibus*. Whether, at the same time, he will discover a new description of printer's ink, which you may print in parchment books, and immediately afterwards shut them up again without the leaves sticking together, or the impression being smeared, remains yet to be seen. But, then, some people say there is greater safety in printed than manuscript indexes. This may be the case in one view, but not in another. No doubt the entries from one block of type are *facsimiles*, but there being *no comparison* in the printing system, if an entry gets into a wrong book, it remains there undiscovered, while it is omitted in the place where it should appear, to the ruin, perhaps, of some one dealing with the lands to which it relates. Besides, printers, not being infallible, will occasionally make mistakes in typography, which, although leading to very vexatious, and sometimes very ridiculous results are of comparatively little consequence in literature, but would be of serious moment in the Registry of Deeds, where the *typographical* error may become a *topographical* one.

Another great objection to the proposed scheme of printing the indexes is, that you are obliged in it to adopt one form of entry in every book in the office. The inconvenience of this arrangement none but the initiated in the responsible but uninteresting process of searching in the Registry Office can fully appreciate According to the present system the items which compose the entry of a deed are placed in the books of the office in such a manner as will render a search most safe and convenient For instance, in the names index the surname of the grantor is in the first column, and in the lands index, the denomination of the lands, each name and denomination being under its own head, but upon the printing scheme the names index of one letter is incumbered with the names belonging to another letter, and in the lands index, under the head of a townland in the county of Cork, you may have a hundred other townlands, in different other counties. The confusion and disorder which will be presented to the searcher's eye when this kind of index has grown to considerable proportions will be, to use newspaper language, "easier conceived than expressed" I am told it is alleged that the columns of the block of type can be transposed (which, of course, will involve loss of time), but this is another "mechanical arrangement" which is yet to be discovered. . . . . .

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As to the proposal of Colonel Leach (which the Sub-Committee of the Law Society endorse), to make the Ordnance Survey the basis of registry, it is not a new one. It has met us in other forms before, and its advocates even went so far as to procure an Act of Parliament, by which the Ordnance maps *were* made the basis of registry; but this offspring of the ingenuity of another distinguished theorist was stillborn, and the Treasury never pronounced the minute which was to give it vitality. It lies upon the statute-book a dead letter, an example of ingenuity, but an illustration of the barrenness of theory when unaccompanied by practical experience. Let us take care that the next Act of Parliament affecting the Registry of Deeds in Ireland may not be abortive also, or, what is worse, involve us in greater delay and inconvenience than we experience at present and leave the books of the office in a state of inextricable confusion Remember, that if we *radically* change the present system of registry, and afterwards find the new system will not work, we have done a mischief which we cannot remedy. The step has been taken, and we cannot retrace it We may return to the original system; but the interval during which the unsuccessful scheme was in operation is a blot upon the registry, obstructing and inconveniencing every searcher in the office, and endangering the rights of property

I My first objection to the adoption of the Ordnance Survey, as a compulsory requirement of registry, is the *fallibility* of that survey. While it is, I am sure, wonderfully correct for the extent of the work, yet there can be no doubt that in many cases it is erroneous in the boundaries of townlands, and even of baronies So sensible was the Government of the infirmities incidental to any general survey of the kind, that the Act creating the Ordnance Survey expressly provides that it shall not be received in evidence in a Court of Law or Equity. That being the case, and it not being binding on any one, of course no one cared to object to it, even where they knew it to be erroneous, and a number of errors remain therefore uncorrected. But Colonel Leach says it is found most useful in the Landed Estates Court. I have no doubt of it; but observe

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Mr. Henry T. Dix (Letters)

that when so used it is, with all the protection which the machinery of the Court affords—no rental for sale being framed till notice has been served upon the adjoining proprietors—a process which, of course, is impracticable in the transfers of land out of the Court

2 My next objection to the adoption of the townland of the Ordnance Survey as the unit for registry, is that comprised in it, but not disclosed in any way upon the survey, are subdenominations of land which will be thus *totally obliterated* upon the registry. Anyone who is familiar with land in Ireland must be aware that a single townland often contains many such subdenominations, which are known and *dealt with* by their distinctive descriptions. For example—there is before me the rental of an estate in the Landed Estates Court which has been recently sold, and to the purchaser of part of which a client of mine is lending money. In one lot I find nine subdenominations, yet it is stated on rental that they are all known on the Ordnance Map as one townland. Now, why should free trade in land be hampered by requiring on everyone dealing in it to use a particular description, arbitrarily imposed, which in many cases is not a correct description of the premises dealt with, but merely the description of a larger tract of which it forms a part? I maintain that it is convenient that there should be this freedom of description in dealing with land, and, instead of creating, that it prevents confusion. If a party wished to deal with one of these nine subdenominations, is it not much more convenient that he should transfer it by its distinctive name rather than be driven to describe it as part of the townland, and forced to "*fix its locality*," to use Colonel Leach's words, by a description of its metes and bounds? Indeed, if situated in the centre of the townland. I know not what language can be used to express its *precise situation*. But suppose this system in operation, how am I to *find* acts in the Lands Index to affect my subdenomination—say I am looking for acts by the owner of the whole townland to affect this particular part, which, under the present system, I can easily find by its distinctive name? Must I not in that case examine the memorials of every act by him to affect the whole townland, some of which may be acts affecting other portions, with which I have nothing whatever to do? And this is *convenient* and a *reform* in the registry!!!

3. A further objection to this arbitrary description of land in registering deeds exists in the fact that even townlands, or parts of them, change their names by being thrown into the demesne of an adjoining proprietor. There is before me now the rental of another property in the Landed Estates Court, in which I am taking out a conveyance of a small lot in one townland, which comprises the plantations of the proprietor of the adjoining townland, and which was put up separately, to enable him to purchase it, as it is essentially necessary to the enjoyment of his residence. Of course this plantation will in time lose its original title when incorporated with the adjoining townland, and is it not much more convenient that it should do so? The proprietor of the residence will probably map it into his own place, and so deal with it ever afterwards. Such alterations of boundaries are often effected by *exchange*, one proprietor giving a portion of his estate to a neighbour as an equivalent for a similar portion in another townland. And are such transactions, which are often absolutely necessary and extremely convenient, to be obstructed by requiring the little bit of land taken in exchange to retain its original name to the end of time?

Again, several townlands are sometimes thrown into one demesne, and are lost in their new denomination, and again dealt with afterwards totally irrespective of their original bounds; and are all such transactions to be also restricted, and landed proprietors forbidden to deal with anything but the prescribed townland, as shown on the Ordnance Survey? If there never was any other dealing with land but in townlands, then there would be little cause to complain, but every professional man knows it is far otherwise. The increased value of land, too, makes an increase in the dealings with small portions of it. The interest in a lease for lives, or a short term of years, is now often the subject of mortgage or transfer.

4. I have a further objection, which, however, is a purely professional one, and it is, that I think registry by the Ordnance Survey imposes a most serious and unfair responsibility upon the solicitor who prepares the deed, and quite outside the scope of his professional duty. However light a task it may seem to Colonel Leach, as a surveyor, to a solicitor it is often a most difficult one to identify the lands which are being dealt with, with the Ordnance sheet, particularly when dealing with broken portions of land.

The general mode is to refer to Griffith's Valuation, and search there for the townlands, which may, however, appear under a totally different name from that by which they are generally known and described in your title deeds, and so elude your search. And the responsibility of identifying these townlands—a failure in which may result in a *mis-registry*, and consequent *loss of money*—is to be thrown upon the solicitor, upon whom, of course, will be visited the consequences of such a miscarriage.

In some cases, in settlements for instance, the solicitor preparing the deed has no personal knowledge of the lands whatever, and yet he is expected to be able to point out on the Ordnance map every townland included in the deed. Again, where there are old outstanding mortgages which have passed through various hands, the assignee usually knows nothing of the mortgaged lands beyond what information his title deeds afford him, and yet if he goes to assign this mortgage to some one else, or to put it in settlement, he must, in order to make the deed carrying out such arrangement valid, identify all the lands in original mortgage executed fifty or sixty years ago with the townlands of the Ordnance Survey.

Perhaps, however, I may be told that the difficulty of identification is all imaginary, and that it is the easiest thing in the world to point out upon the Ordnance map the lands named in ancient title deeds. If so, then the great boon to be conferred by adoption of the Ordnance townland in *fixing the locality*, to use Colonel Leach's expression, turns out to be of very small value indeed, when parties dealing with land can do it at any time with such *perfect facility*.

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5 But there is a further objection to the Ordnance—namely, that while the object of its adoption is alleged to be simplicity, and that it saves the multiplicity of entries now occasioned by "aliases," or duplicate names, it will, in many instances, work a precisely opposite result, and increase rather than decrease the number of entries. For instance, in a case that came under my own notice a few days since, a district known by *one* name, and which is so described in the title deeds of the estate of which it forms a part, comprises nineteen townlands, so that where one entry only would be necessary in deeds affecting that district under the present system, nineteen entries would have to be made should the Ordnance be adopted. This will, I believe, be found to be the case in most large estates in Ireland.

6. A further difficulty in adopting the Ordnance will arise in respect to *incorporeal hereditaments*, tithes, fisheries, &c., for which there is no place in the Ordnance scheme. How are they to be dealt with?

7. But who shall describe the confusion which will follow the townland plan, in relation to suburban property, upon which villas, cottages, and terraces have been built and each christened by the fancy and taste of the owners "Sea View," "Rose Cottage," "Laburnum House," &c., will cease to be distinguishable on the indexes of the registry any longer, and become submerged in the "townland" in which they are situated?

But one of the greatest objections to this Ordnance experiment, it seems to me, is the total and radical change which it must effect in the system of the office, and the consequent interruption which it will occasion in the course of searching for many years to come. If it is adopted, every search in the office must be made against the monument or title-deed name of the lands up to the date of the alteration, and *from* that period against the Ordnance name. If this radical change were really necessary I would be the last to object to it, and, on the contrary, would say, "reform it altogether," but if the system only requires some modifications and improvements, which can be effected without any difficulty, why, except for the sake of novelty and variety (which seem to have a great charm in the present day), disorganize the whole structure of the establishment? If I require more light or air in my house, surely I will not, to obtain these *desiderata*, remove the whole roof.

I know that it is much easier to find fault with than to suggest a remedy, and I would not, therefore, have criticised Colonel Leach's scheme if I had not myself offered suggestions for correction of the evils complained of. By the reforms I have proposed, and which are of the simplest description, I have no hesitation in saying the current business of the Registry Office could be kept written up *to the day*, and an end put to the vexatious delay which at present gives such just cause of complaint.

One suggestion of the sub-committee I quite concur in, and that is the incorporation of the carolmaut and registry of deeds, but as, for the reasons I have already stated, I disagree with them upon the main points of their report, namely, printing the current indexes and adopting the Ordnance Survey, it is unnecessary for me to enter upon the consideration of the details by which they propose to carry out these alterations.

LAND TRANSFER.

TO THE EDITOR OF THE IRISH LAW TIMES.

SIR,—From the opinion expressed in my last letter, you will, of course, be aware that whatever suggestions I have to make respecting improvements in land transfer they will not be in the direction of the present "Record of Title" system, which I hold to be utterly inadequate to the purpose for which it was designed. . . .

It is needless to say that I am not favourable to the suggestions contained in Mr Donnall's paper, in which he advocates local Records of Title, with the Clerk of the Poor Law Union as the Recorder. If, as I believe, the Record of Title, conducted as no doubt it is, by an educated lawyer experienced in matters of title, is objectionable and dangerous, what could we expect from local registries presided over by the Clerk of a Poor Law Union.

I suppose I am safe in asserting that all who propose any reform or improvement in land transfer admit that such reform can only be applicable to *future* transactions in landed property. On this assumption I will proceed. It is the wearisome waiting upon the examination of title, including first the preparation and furnishing of an abstract, the obtaining of counsel's opinion upon it, and getting out the searches in Deeds Office, and their examination by counsel that causes most complaint. Of all the causes of delay, I think that connected with the searches is the most aggravating, and when the search is obtained it contains a number of acts of which the vendors are totally ignorant, but which turn up as what are technically called "general charges," or acts by some person of the same name as the person searched against, or affecting premises of the same name as those to which title has been shown, but which (although in a different county) are retained, because the person who registered it was not as definite as he should have been in his description of the premises. Of course, the evils I have referred to are not only the cause of delay, but also of expense. . . . . Both should be removed as far as they can be with safety.

The plan which I desire to bring before your readers would not disturb the existing law or the present freedom enjoyed in dealing with land, but would leave landed proprietors the same power they now possess of settling their estates to such uses and limitations, or otherwise dealing with it as they consider most beneficial. . . .

I would establish in the Registry of Deeds Office a Registry of Title. Those who choose to avail themselves of its provisions, and to register their estates, should sign a simple requisition to that effect, and thereupon the Registrar should be obliged to open a register of that property, as one would open a separate account in

a ledger, to which register a number should be affixed, beginning with the first title registered, and so on consecutively. In every transaction respecting registered land this number should be attached to the memorial, and certified by the solicitor to be the correct number of the registered title. The memorial should, in all respects, correspond with the ordinary memorial in use, and should be entered in the books of the office in the usual way, but it should be the duty of the Registrar, in the case of a memorial with a "title number," also to enter it in the Register of Title, adding on the register the reference to the memorial itself in the books of the office.

The Register of Title should contain—(1) grantor's name; (2) grantee's name, (3) date of deed, (4) character of deed (mortgage conveyance, &c.); (5) consideration and, as I have said, the reference number of the memorial. In all cases I would require the real consideration to be stated in memorial, and in cases of settlement or deeds of trust, the trusts and limitations contained in the deed should be abstracted in the memorial, and the accuracy of such abstract be certified by the solicitor registering it. In cases of land, the title to which is so registered, every deed to effect it should be registered against the title, and unless so registered should be void against such registered land. It may be asked—how is it to be known that the land is so registered? Very simply. When any deed affecting a registered title is entered in the index books of the Registry Office, besides the ordinary reference number indicating in which book the memorial is to be found transcribed, there should be added the Registry of Title number, so that any one searching in the Registry of Deeds against the lands, would at once come upon the fact that the title was registered, just as now they come upon the registry of the feet of lands being recorded in the Record of Title—with this difference, however, that they can at once, in the same office, refer to the Registry of Title, where they will at a glance learn all about the title of the premises searched against. This Registry of Title would have this advantage over the Record of Title—namely, that any one who desired to register property purchased might do so whether it had been purchased in the Landed Estates Court or by private purchase, out of Court. Of course, to open a register of title with such a conveyance would not be any warranty of the title to the lands antecedent to such registry, and it would have the effect of making a title in course of time; and if, as has been proposed, the period under the Statute of Limitations, is reduced to 10 years instead of 20, this result would be materially facilitated. If the register opens with a conveyance for substantial value, a purchaser may reasonably suppose that the title had been fully investigated by the grantee, and will be disposed, if there is a clean register following such conveyance for a sufficient number of years, to take the property upon the title thus shown. Of course, where a property has been purchased in the Landed Estates Court the advantage is far greater, for there he has a parliamentary and indefeasible root to the Registry of Title.

In cases of sub-division of registered land the course would be simply to open another register with another number, which number would appear in the registry of the act dividing the property. For example—A has registered his estate of Blackacre, Register of Title, 521, and sells a portion of it to B. The conveyance appears on the Register of Title, 521, but if the purchaser opens a new register for his part, the number of the new register is mentioned, so that any one interested in that part can refer to it.

The practical effect of the system I have suggested would be, that in the case of registered titles a vendor, when about to furnish his title, would bespeak at the registry a copy of the register of such title, which would be furnished with the copies, deeds, or it may be with an abstract of the title, compared with the original deeds, which is the English fashion, and upon this (if the title were not too simple to require counsel's opinion), counsel would advise *finally*. There would be no direction of searches, for the register would contain all the deeds affecting the lands. This, I think, my professional readers will admit, would be an immense saving of time and of expense also. The priorities would all be settled by the register, and the only question which could arise would be on the construction of the deeds upon it, and if counsel advised good title, the conveyance might be prepared and executed without further delay, the purchaser's solicitor having nothing further to do in protection of his client's interests but to see that since the copy register was furnished no further act appears upon it. In order to complete the scheme I have sketched, I should require that recognizances and *lis pendens* should be registered in the Registry of Deeds as judgment mortgages are registered, and thus they would appear also on the register. I see no difficulty in this being done upon the affidavit of the solicitor for the plaintiff in Chancery stating (as in affidavit of judgment mortgage), the disposing power over the lands mentioned in affidavit of the person sought to be made responsible. I can see no reason why the same diligence and inquiry should not be necessary, and is not as practicable in the case of recognizance and *lis pendens* as in the case of judgments. If this were done there would be no further occasion for the office of Registrar of Judgments, so much expense would be saved, not only to the State, but to every person dealing in land, who in every case now must search in that office. I would further require that chattels real should not be sold by the sheriff under an execution until some record of such proceeding should be lodged in the Registry of Deeds Office, or else that the conveyance from the sheriff should only take effect from its registry. It seems to me very unreasonable that in transactions respecting lands held under such title the purchaser shall be bound to search up to the last moment for executions lodged with the sheriff. If the transfer of land is to be facilitated, the purchaser should be able, in one place, to see everything relating to the premises he is about to buy.

There is one other point I would like to add to my plan to make the Register of Title more complete, but I would hesitate to make it compulsory—namely, an entry in the register of the deaths and marriages of parties interested in the registered land, but such entries should, I think be voluntary and not absolutely necessary.

As I have said, I would make the registry by register number imperative in all cases of registered land, and further, make it plain beyond all doubt that no unregistered charge, legal or equitable, whether created by deed or agreement, or by simple deposit of title deeds, should be a lien upon registered land.

This would make the possession of the title deeds to registered land of much less consequence, and enable the owner, if all his title deeds were lost, to make title from the memorials and the register of title. Once a deed was received by the Registrar and entered on the Registry of Title, I should not allow the regularity of its registry to be open to question and the deed should be considered registered, but I would give power to the Court of Chancery on evidence of a deed being registered against wrong lands, to order the Registrar to remove it from the register—of course on notice to the party registering it. This, however, would scarcely be necessary as if, upon reference to the memorial, it was found the land did not correspond with the registered land, the purchaser should be satisfied, as although no unregistered act could be a lien on registered land, the registry, if erroneous, would not make it a charge. To facilitate reference to the registered titles, I would have an index to them, separate from the ordinary land index, so that any one wishing to satisfy themselves on the subject would only have to search in this book, for which a small charge should be made, and, if the lands sought for were registered, they could be found at once.

My scheme does not pretend to make land as easily transferable as government stock, but it does pretend to facilitate such transfer without restricting the owners of land in dealing with their property, and to do so without establishing a system so dangerous that it can only be carried out by a system of caveats. I believe such a system as I have suggested could be carried on without the expense of a new establishment, and, being both simple and safe, that it would have the confidence of the Legal Profession.

I remain, Sir,

Your obedient servant,

Feb. 20, 1874. HENRY T. DIX.

TUESDAY, JULY 16, 1878.

July 16, 1878.

Mr. J. Weldon.

Mr. JOHN WELDON, Solicitor, examined.

680. The VICE-CHANCELLOR.—If you have arranged your evidence in any particular way, we should be glad to hear it in narrative form?—I have considered the several questions forwarded to me. With reference to the propriety of bringing in full copies of deeds to be registered, instead of continuing the present system of memorials, some clients object to have their affairs made public, especially such deeds as family settlements, mortgages, and things of that sort, they think it more desirable to have only the short contents stated in the memorials. I think it would add very considerably to the expense upon clients, especially in the case of long deeds, if full copies, and also short abstracts were brought in.*

681. Do you think there would be any inconvenience or delay in the registration of deeds by reason of requiring full copies to be brought in?—A largely increased staff would be required for the comparison of the copies, if that duty were placed upon the office. Then if full copies were required, I consider that they must be on parchment; paper, as we know from our experience in the Affidavit Office, wears and splits up, and in an office like the Registry where they are so much more used, the copies would have to be filed on parchment. Again the memorial has the advantage of being generally under the hand and seal of the grantor, and a copy of it may be given in evidence, while it would be impossible to give in evidence a copy of a copy. With regard to number two, which requires that every deed to be registered should contain the county and barony in which each denomination of land in the deed is situate, I would remark that many cases arise where it is impossible to state the barony, and in which time would not permit of investigation sufficient to fix it, such as assignments of mortgages, and leases where the original deeds don't state the

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barony. Then if the registration of wills is, as I should suggest later on, to be made compulsory, where dealing with lands, it would be impossible, it would be an almost impossible system to work where wills deal generally with lands, such as "all that and those my estates and lands, situate in County of Dublin and the County of Wicklow." I don't know either how vesting certificates of bankrupts' estates could be dealt with, so as to state the barony, for it is often a matter of tedious investigation to find out the bankrupt's property at all

682 Isn't it the fact that there are a great number of deeds put upon the registry now that don't relate to lands at all?—There are a great number.

683. For the purposes of registration that is perfectly inoperative of course?—Perfectly inoperative

684. And would you exclude from the registry all deeds which do not appear on the face of them to affect lands?—I would

685 At present there is a separate ledger, called "the General Acts Book," kept in the office?—Yes

686 Which requires a separate search?—Yes That is rendered necessary by the fact that an act might be registered affecting a house in Sackville-street without saying even in the City of Dublin

687 Does inconvenience arise as to satisfying and explaining acts upon searches by reason of that?—Very frequently, but arising more from general charges of a different description, such as "and all other lands comprised in a mortgage dated so and so." That is the class of general charges that, as a rule, we find it more difficult to explain upon a search.

688. Do you speak of deeds which refer to parcels stated in other deeds?—Yes, for instance, the lands of Blackacre, "and such other lands stated in such a deed of such a date"

689 Would you be in favour of limiting the registry to the lands specified in the deed by naming them?—I would With reference to the proposal "that only one name of each denomination should be noticed for registration, that of the townland on the Ordnance sheet of which the lands form the whole or part that the number of the Ordnance survey should be specified in the deed, or in a certificate endorsed on the copy, and that for premises in cities or towns the description should be by street and the number of the house"—premising that the scheme, whatever it is, must suit all transactions, both large and small, I would say that, though it might be possible in the majority of cases to identify whole townlands with the Ordnance survey, yet in many cases that cannot be done—you cannot, I mean, identify the deed names with the Ordnance survey. I have a striking illustration of that in a case pending in the Landed Estates Court There are lands conveyed by fee-farm grant so late as 1859, called Ballynabrackey, including Baltinoran and Ballynagalshy as parts and parcels thereof The ordinary requisition was sent to Ely place, where they have singular facilities for identifying property.

690. You speak of the General Valuation Office?—Yes; and they marked out there as the estate of the owner, Baltinoran and Ballynagalshy A survey was ordered then; and when the surveyor went down to the lands, the mears-man walked him round two other denominations called Derryhinch at one side, and Gortnahorna at the other. The solicitor having the carriage of the transaction served his time in our office, and knowing that I had a little technical knowledge of such matters, came to me to help him through with it. We got the Down Survey, and found out how matters stood from it. We were able at once to identify that Ballynabrackey extended down to the extreme borders of the King's County, and that Derryhinch was within the ambit of Ballynabrackey We also found that Ballynabrackey included five other denominations belonging to other persons, making in all seven townlands in addition to those mapped out at Ely-place The owner in that case, when his attention was called to the fact, believed that he held Derryhinch as owner in fee, and presented a petition for the purpose of selling it as a fee-simple property; but on hunting out the patent for the root of that title, it was found to be included in the fee farm grant under the denomination of Ballynahrackey. Without the aid of the Down Survey it would have been impossible to find out that. Another instance occurred in our own office not very long ago, in the case of an estate we were selling in the Landed Estates Court—part of the intermixed lands of Rathcoole. The Ordnance surveyor went down, and he mapped in a piece of land which was part of the townland of Crookshane The tenant in possession of that showed cause against it, and proved that she held under a Landed Estates Court title." We again had the surveyors down, and ultimately we were obliged to dismiss the petition as to that plot of ground; though we are in receipt of the rents up to this time, we have been unable to identify it The difficulty also arises where a person has to deal with such denominations as were in another petition we had some time ago, in which the lands were described as "five acres of land in Fisher's batter, and two acres of land at the end of Fisher's batter, in the County of Meath, near Drogheda." There being a great number of different names like these, it took great trouble to identify the particular lands on the Ordnance Survey, and though a solicitor of experience and accustomed to mapping might find them out, a solicitor in the country, without the same facilities as we have in Dublin, would probably fail When you come to deal with this other portion of the question which proposes to have the sheet of the Ordnance Survey given, that I look upon as more dangerous still, because, in many cases, it happens that there are four maps upon one townland For instance the townland of Marshalstown has four sheets, and if a person were dealing with only a portion of it, it would require an expert to know what portion of the townland lay upon a particular map. In the adjoining lands of Crowscastle we bought three fields for a client, and only that we had local knowledge as land agents, and that our client could point them out, we should never have been able to localize these fields upon the Ordnance map We might have registered upon a totally wrong map, and, of course, the result would be that if a deed was registered on a wrong map it would lose its priority altogether Again, Banks and other clients constantly require their deeds and transactions to be carried out with great rapidity. Questions of priority often arise, and time does not avail to allow of the minute investigation necessary if the maps were to be adopted as a compulsory basis Another case, and it is rather a startling one, arose in Alexander Mark's estate, in which there was a map upon the lease, and being a terminable lease, no survey was required by Judge Flanagan We sent a copy of the map to Ely-place, however, and they returned a map coincident in its boundaries exactly, with the map on the lease It stated the contents as 220 acres, which was more land than was mentioned in the lease; but I thought it would come under the words "more or less," and sold according to that map Subsequently the purchaser had it surveyed, and found that it contained thirty-three acres less than we sold He brought the map to Ely-place and it turned out that a portion of land altogether outside the ambit of the map had been by a mistake included in measuring the contents, and there was £600 compensation paid to the purchaser. When that occurred in an office like Ely-place, having such facilities and generally so wonderfully accurate, what would become of a solicitor in the country trying to poke through a map he knew nothing of? Another instance arises in a case in which we have got a mortgage to prepare on the lands of Clonteedmore One hundred and eighty-five acres were settled on the marriage of the lessee's son, and his three sons partitioned it amongst themselves The share of the owner we had to deal with for our clients was described as the northern part of the lands of Clonteedmore without giving its contents. Who could localize that upon a map without an accurate survey?

And finally, upon this subject, the Landed Estates Court, with all their powers can never kill the old deed names except in the case of fee-simple estates.

691 In your judgment would it be practicable to register by the Ordnance Survey names?—If it were not compulsory, I think it could be done in a majority of cases In the case of whole townlands I think it could be done, with a reasonable amount of time, but in some cases it would be impossible to identify them, as in the cases I have mentioned.

692. Suppose the registration was guarded against adopting the Ordnance Survey as conclusive as to boundaries?—That is a different question, as to the rectification of boundaries In that particular case of Baltinorau for instance there was a portion taken out of this county (pointing to map) and put into the King's County

693. You are aware that a great deal of inconvenience and delay arises in searching from the number of alias denominations against which the Lands Indexes are prepared?—There does, but I think that is magnified to a very great extent, and I am of opinion that the inconvenience experienced is not nearly so great as the danger would be in the other case Whenever there is an alias the Registry Office is paid for it—they get an additional fee Sometimes there is an abuse of the system, for instance I have seen the case of a nobleman in the north who registered 300 denominations of lands in the counties of Antrim and Donegal, requiring them to be entered in both counties. In a case of that kind I would make the party pay a fee in each county, the office would not then suffer by it As to going by streets, and the numbers of houses in towns and cities, that is a very unsafe method of registration, because the numbers of houses are constantly changing. There is one abstract of title I had in my hands a couple of months ago of a house in Abbey street, and since 1826 the house had been known as 145, 84, and 83. If house property in towns and cities was to be merely registered by numbers it would be perfectly impossible, unless there were some boundaries or something else of the kind given, for a man to trace title. If you go, as I had occasion once to do, to the Corporation, to make discovery as to changes, you will be told "Oh! it is an impossibility" I wanted it for the purpose of the title to a house at the corner of Grafton-street, occupied by Madden, the tobacconist; I could not find, in making title to it, how the numbers were changed although what was formerly three houses is now only two.

694 Mr LANE, Q.C. (Secretary)—Do they insert the numbers of houses in the registry books now?—If in the memorial, they put them in the books But if I am directed to search against the house 83, Abbey street, they give me acts affecting that party for any house on that side of the street. One more illustration of the danger of working by map altogether is shown in the case of a conveyance made in the year 1868, by the Landed Estates Court, of a dwelling-house and premises [Here witness referred to conveyance with map, showing an outlying avenue] The adjoining proprietor got a conveyance of his land, the instrument excluding this avenue, and he committed what our client considered to be a very grievous trespass by building a wall right down into the ground conveyed to our client He instructed us to bring an action for trespass, but before doing so, we sent a surveyor to see the lands, and he brought us a report that the map was all wrong On receiving that we sent him to check his measurements, and he brought the same result again, and an enlarged plan of the ground as it actually stood, and as it was mapped on the deed, and applying the tracing of one to the other, we found that they were not coincident except in one small corner In fact the north wall is some feet from the position shown on the map, and that was the case of a map made by actual survey for the court in 1868.

695 The VICE-CHANCELLOR—Then you propose to make no change in reference to those aliases in the present system of registration?—I don't see that you can make any change with advantage.

696 Do you approve of the present form of memorials?—I would sooner see more information upon the memorials, but that would be coming so much closer to the full copies that, perhaps, if there be a strong opinion upon the advantage of full copies that would be got rid of I am afraid, however, that it would add much to the expense on clients. In the interest of my clients I would much sooner retain the present system of memorial, than lodge full copies of deeds, except in the case of Landed Estates Court conveyances which are printed, and being of public record are in no wise secrets.

697 The memorials invariably now, I believe, exceed very much the statutory requirements?—I think not as a general rule. I was surprised on reading a report of a late Registry Commission, to find a statement in it that the average length of memorials was said to be thirty folios Judging from another part of Mr. Dwyer's report which says that the average fee is 10s, it would follow that the average length cannot be more than eight folios, which is according to my calculations and experience

698. But do not many contain more than the statutory requirements?—Yes.

699. Do you think that is an inconvenience?—It is to a certain extent, but it often helps us in making out titles. In a case now in the Landed Estates Court we have not a scrap of a deed, and already, I have found sufficient in the recitals of memorials to enable me to trace the title

700. Do you think it would be desirable to bring in with the memorial an abstract of the memorial just as it is recorded now in the Lands Index?—No, it would add to expense and it would lead to bad results—bad abstracts The preparation of a good abstract requires more care and identity of intellect than any other part of the present system. Twelve hundred solicitors and their clerks will never send in anything so uniform as to enable it to be adopted as the basis of search. You would simply have a heterogeneous mass At present you have a number of men trained to that particular work of picking out and identifying the very portions of a deed that are essential

701. Do you think there would be any increase of facility for making up the Lands Index by the bringing in of such an abstract?—I think not, these would have to be compared, and a skilful clerk will just as quickly prepare an abstract as go through a comparison of these documents.

702 Would it facilitate registration, do you think, to have an abstract of that kind brought in?—I don't think it would There is a great misconception abroad about that, I think In my opinion there is no delay about registration We send up our deeds and we get them back the day after but one Again, on the Names Index, a search can be brought down to within two days, and on the Day Book you can continue it down to the hour you are searching

703 Can the lands index be searched down so recently?—No, it is generally more in arrear—about two months, but you don't require as a general rule to search the lands index because we always close, and the Landed Estates Court act, upon a negative search upon names and never think of searching against lands.

704 What is the practical use of the lands index then?—The greatest use of it that I have known is in making out titles where you don't know the parties who were the former owners of the estate. We find a mortgage from "A B," we have no deeds and we go to the Registry Office and by searching upon the lands we get the whole title.

705 Is it not also of importance as a double check upon searches?—Yes.

706. I believe there are searches made by a searcher upon both indexes contemporaneously?—That is if it is bespoken upon lands and names If upon names only, it is made by two clerks upon the names index

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707. Each checking the other?—Yes, by independent searches.

708. And the result is checked one against the other?—Yes, in both cases.

709. Don't you think that there would be much more security in having a search made upon lands and names than confining it to names only?—Well, I never knew of a mistake to occur in a search upon names. If the Ordnance Survey denominations were adopted I should say that if the duty were imposed upon the Registry Office of checking the maps with the deed names, a very large staff would be required, including engineers—men skilled in maps.

710. Are you of opinion that affidavits of perfection should be continued?—I am.

711. What value do you attach to them?—In the first place it is a sworn proof by a person who is supposed to be an independent witness that a man has executed a deed, and in the absence of evidence of handwriting that is very good evidence, especially when all the parties are gone.

712. Would it be a check against fictitious or fraudulent deeds being put on the Registry?—Yes, because persons would have the fear of a prosecution for perjury before them.

713. In the present forms of affidavit a difference is made in those sworn before a Commissioner out of the Registry Office and those sworn before the Registrar. In the latter the hour and minute of delivery to the Registrar is stated?—Yes, I would abolish the whole of that and have the simple affidavit as now sworn before a Commissioner.

714. The same work has, in point of fact, to be done by the Registrar whether the affidavit has that averment or not?—Yes, and it is a most vexatious thing waiting there to consider what hour of the clock you should put in. But what is proposed by the printed question is more than that, I think. At present I can put a deed upon the Registry upon the execution of the grantee or one of the grantors, and it will appear upon the Registry as an act against all the grantors. As I understand this (the print) it would not be an act against anyone whose execution is not proved. If that be done at all it should only refer to future deeds and not have a retrospective effect.

715. Do you think it would be an advantage to extend the power of making affidavits of perfection to affidavits by any persons acquainted with the handwriting of the parties, or would you confine it as at present to the attesting witnesses?—I think there is no difficulty in getting attesting witnesses. Of course the other is good evidence in a court of law, and there is no reason why it should not be held good in this matter too.

716. But if you permit a registration to be effected upon a memorial executed by a grantee, is it not of great importance that the affidavit of perfection should state the execution by the grantor?—Yes, but it might lead to difficulty, and I can readily conceive cases in which it would be highly desirable to enable an affidavit to be made proving the handwriting.

717. As to the abstracts and indexes can you suggest any improvement in the manner of keeping the indexes?—I can; I think that the present draft of the decennial indexes might very readily be made available in quinquennial books. Now you don't get those indexes from 1870 until 1879, and I see no reason why they should not be quinquennial—1870 to 1874 might at once be completed for public use. They have all the materials at hand.

718. That is the first five years?—Yes, and it would give great facility to the public to have that done.

719. Do you think printing could be made use of there?—I think not, I think the number of copies required is so few that printing would be more expensive than writing.

720. Laying aside the consideration of expense would not the facilities afforded be greater?—There would be a greater number of indexes, certainly.

721. And would they be more rapidly searched through when printed than when written?—I think not. For my own part I would almost prefer the writing.

722. Have you any other suggestion to make as to the indexes?—Not in this part of my evidence, I don't know whether you have struck out this proposition to open a heading for each townland?

723. Do you think that that system could be advantageously adopted; are you familiar with Colonel Leach's plan?—I know generally what it is; to open a ledger account, as it were for each townland. I don't think there would be any great advantage in that over the present system of Lands Indexes. I think they approach near enough to it. You would open a number of pages that there might never be another transaction on, while other pages, would be so crowded with acts having no reference possibly to the title you are searching against. And in such cases as lands out at Drumcondra where they are being covered over with houses, of course it would be an utter impossibility.

724. The stamps on deeds and memorials must be all checked and passed by the Registrar at the Registry Office, before a deed is registered?—Yes.

725. Is there much delay occasioned by that?—A considerable amount of delay.

726. Do you think that could be remedied?—Well, I don't see the necessity for the Registrar doing that, it is a class of work that might very well be done by the comparing clerks.

727. They referring questions of difficulty to the Registrar?—Yes. They are stamped first by one official of position in the office and he then passes them on.

728. I am speaking now of the stamp duty on the deeds?—I thought you meant the office fees.

729. Is not the Registrar now bound to see that the proper stamp duty is on the deed?—He is, but it is difficult to see how that could be avoided.

730. Would it be possible to have them examined at the Stamp Office, and a denoting stamp affixed there?—It would lead to delay.

731. If a deed when presented at the Registry now is found to be insufficiently stamped, must it not be taken back to the Stamp Office?—Yes.

732. And that would be avoided by taking it first to the Stamp Office?—Yes, but the proportion of cases in which they are insufficiently stamped is very small. I would not relieve the Registrar from that responsibility.

733. Is there much delay now in getting searches out of the Registry Office?—Very little.

734. Do you know how much in arrear the lands index is?—I cannot answer. I know that generally there is a period of from five weeks to two months during which they are in arrear.

735. You are aware that now, in the event of a search being directed as against a deceased person, it is necessary in many instances to continue it for an indefinite period after the death?—It is.

736. Does that produce inconvenience?—It does, of course—it produces the necessity of having to make the search, but I cannot see how that could be avoided unless you make the registration of wills obligatory, which I would be very glad to see.

737. But as to deeds?—It is not customary to continue the search as against lands for more than four or five years after the death of a party.

738. Would you think it desirable to make that a statutable limitation?—Yes; I would say five years.

739. The limitation is only now a matter of prudence?—That is all.

740. Would any practical inconvenience arise from a deed not being capable of being registered after a limited period?—If a deed is not registered within five years it should not be registered at all.

741. Would you propose that that limitation should be from the time of the execution of the deed, making it compulsory upon every party to register a deed within a certain time after its execution?—I think that

would be a very desirable thing, and the limit of five years would be a fair one to adopt. The Board of Works memorials adopt the Ordnance denominations and give the number of the sheet, but as to the public doing the same, I would say that that is no test. The Board of Works operate on several townlands—never for small bits of land, and the surveyor of the Board always goes to the lands, which amounts to an actual survey. I was in the Registry Office the other day, and I devoted some time calculating what proportion the Board of Works deeds bear to the public deeds, and taking a range of ten years, 1860 to 1869, I found the number of deeds registered was 116,187, of which 1,252 were Public Works loans, which is a shade over one per cent. of the entire registration.

742. You have had a good deal of experience, of course, as to judgment mortgages as securities?—A great deal.

743. Do you approve of them as securities?—I think they are greatly to the interest of creditors, because they are able by means of them to catch property that they otherwise could not.

744. Do you speak of them now as securities for the lending of money, or in the nature of executions for realizing a debt?—In the nature of executions.

745. But how do they stand as securities?—I don't see that they have any advantage over a deed

746. Do they at all come up to the advantage of a deed?—Just in a rare case, where a man might have time to do nothing else than sign a bond.

747. Are they not generally considered as unsafe?—Not so much latterly. There was a time when a person would scarcely touch them, because the current of decisions was to upset them on any ground, but latterly the judges have been more in favour of judgment mortgages, and they are more in favour.

748. As a general rule are clients willing to lend on them?—Not at all—in my experience I have not known half a dozen: but for judgments *in invitum* they are very useful. There is a suggestion to the effect that they should only continue for a limited time, after which the creditor should proceed to realize his security. I don't think a debtor would be pleased to see that passed into law, because it would compel the creditor to sell him out, when otherwise he might be inclined, relying on the protection and security of his judgment, to give time.

749. In England a judgment does not attach upon real estate now until elegit is issued Do you think that would be a good rule to follow?—That would be going back to the state of things which existed before 1850.

750. Yes, in many respects—do you think that that would be desirable?—I don't see that there would be any advantage in it, unless you are going to consolidate offices.

751. Do you think it would be desirable to consolidate the different offices in which acts affecting land appear—the Registry of Deeds Office, the Judgment Office, the Enrolment Office in Chancery, the Registration of Lands Improvements, &c?—I decidedly think they ought all to be united in the Registry Office.

752. So that every dealing with land should appear upon one search?—Yes, I say that as to the Judgment Office, so far as judgments affecting lands are concerned, because it would be a useless waste of power to touch others.

753. I confine myself to acts affecting land—would you disapprove of a limitation within which a judgment creditor should be bound to enforce his judgment?—In the interests of the debtors I would.

754. But in the interest of the public generally?—A great many people are quite satisfied when they get a security upon lands to let it remain so, and take the amount of the debt according as it may suit the convenience of the debtor. A compulsory provision of that description might prove a hardship on the debtor by driving the creditor to sell out his lands at an inconvenient time.

755. Is your opinion then, that, upon the whole, it would be better to leave the present state of affairs alone?—Yes. If they were continued there is one improvement which I think ought to be made in the Registry Office, and that is the title should always be as on the judgment and not displaced as it is at present if a second plaintiff makes an affidavit. For instance if a judgment is obtained by Findlater and Madden against Weldon, and Madden makes the affidavit, it will be registered as Madden and Findlater against me, which leads to unnecessary delay, trouble, and inconvenience.

756. It is indexed according to the person making the affidavit and not according to the first name in the judgment?—Yes And with reference to wills, it has been asked me were the provisions of the 13th and 14th Victoria sufficient if wills were to be registered. I, with great respect, think not, because I think no will should be registered unless admitted to probate, in which case it would be proved by oath, or if brought in for the first time to the Registry of Deeds there should be an affidavit by the devisee or person claiming under it, that it is the last will As I read the section of the 13th and 14th Vic, if that alone were deemed sufficient the registration of a will would be effected by lodging an unverified memorial.

757. There should be a guarantee, you think, of the probate or an affidavit?—Yes, an affidavit the same as is made for a probate, that it is the last will and testament

758. You are aware that copies of negative searches are recorded now?—Yes

759. Do you think there is any utility in that?—Well I have known great saving result from that—you can get the copy at 4*d* a folio of what otherwise might cost £50. I think they are not availed of as they should be—there is a great ignorance on the subject of them

760. Is there an index kept of these recorded searches?—Yes

761. So that you can ascertain readily whether any searches have already been made against a particular estate?—Yes

762 Dr. LONGFIELD.—You think that putting a limit to the time for which a judgment would be a charge upon land would have an injurious effect upon the debtor?—I am afraid so.

763 If they wished, and in case the creditor wished to give time and the debtor to get time, could that not be done by substituting a mortgage for the judgment?—It would.

764 So that the inconvenience would not occur in practice?—That would be a complete answer to it.

765. You have stated that some transactions are executed with such rapidity that it would not be possible to know the Ordnance Survey name of the townland?—Yes, such as the assignments of mortgages and deeds, not containing that information themselves.

766. Don't you think that persons making the advance could and should make inquiries as to where the lands they take as security are?—They very often don't do so.

767. If it were a public convenience that this should be required, should we take into consideration the careless people?—The difficulty does not often arise until ——

768. You are aware that an extra set of books is kept in the Registry Office on account of that?—Yes.

769. And that, of course, adds to the delay about one-third of the time?—No, because the "No barony" book is short.

770. You stated that generally searches are most inconvenient—that is, most difficult of explanation—when they refer to preceding deeds?—Yes, as to general charges.

771. Would it not be more natural to find them more difficult of explanation when they did not mention deeds?—Say that I am searching against a deed to affect the land of "A B," and I find another deed of another "A B," with whose deeds

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I am a total stranger, the difficulty arises if these instruments be in general terms.

772. I have an act now, by John Smith, affecting the lands of Blackacre and all other his lands in Ireland. If I don't know John Smith of Blackacre, I must inquire about every man of the name?—And the only thing I can do is to show that the John Smith searched against is not my John Smith.

773. Is it not more easy of explanation if you have a reference to the lands in the mortgage?—Yes, if you have access to it, it might be returned and you would not probably be able to find it, because you did not know the parties' names to it

774. The VICE-CHANCELLOR.—Do you approve of the present system of making exceptions in the requisitions for searches?—It saves expense, for there is a fee on each act returned

775. The fee is now a small one—Is on each act?—I believe so.

776. Are you aware that there is just as much trouble in searching against exceptions?—Just the same. I would much sooner they were abolished. It is much easier to deal with the acts; they come up in an intelligible form, and very often it is difficult satisfying an absent party that the exceptions are not what they purport to be.

777. Mr. MADDEN.—In the event of the consolidation of the Judgment Office as regards land with the General Registry, how would you provide for the old judgments that now require re registration every five years?—I would give the holders five years to register them as judgment mortgages.

778 You prefer that to the alternative suggestion of giving the holders five years to realize their demands?—I think so, for in the case of old family charges, for instance, much difficulty, inconvenience, and hardship might otherwise arise.

779 Having regard to the fact that most of these securities are old family charges, there would be no difficulty in specifying the lands against which to register them?—No.

780. I conclude from your reference to the registration of wills that you think that protection should be given in the Registry Office to purchasers for value from heirs-at-law and devisees?—Certainly.

781. From your statements as to the memorials, I conclude that you think the secondary use that is now made of the Registry Office in preserving evidence of lost deeds, is so important that you would not disturb the system?—I consider that most important I seldom met with a complete deed title.

782. You are of opinion that this secondary use of the Registry should be preserved?—I certainly am.

783 But isn't the present system very unsatisfactory in this respect—that the memorial, except as to the statutory requirements, is an uncompared and unauthorized document?—Yes, but it gives you a clue very often and enables you to hunt up title.

784. Would it not be much more satisfactory if, in addition to having an abstract for the purposes of an index, either a verified copy or a duplicate of the deed were brought in which could not mislead?—I would personally sooner see a duplicate filed, but I know many clients would object to that—there are family settlements and transactions they would not wish to have made public. Besides it would increase the expense on them.

785 Isn't it possible to provide that duplicates should not be open to the public—leaving the indexes available for the public?—It would be perfectly valueless unless open to the public.

786 I mean not open to the general public?—How would you prevent it? I go in there and say I want a search against so-and so. If it is to be of any use it must be public.

787. Would it not be practicable to leave the indexes open to the general public, and confine the right of reference to the duplicate deed to persons interested in the land?—Suppose I am a mortgagee, and want to hunt up title, I am the very class of person that, under such a rule, the Registrar would object to let in.

788. Have you ever considered the effect of the fixed schedule of charges in relation to small estates?—Yes, and I think there should be a sliding scale, or something like the higher and lower scales in the High Court of Justice now.

789. In the case of the large estates and large transactions the charges are fixed?—Yes.

790 Isn't it only by contracting themselves out of the registry of deeds, and selling under conditions of sale, that small owners can deal with their land at all now?—I have had very little experience of that. I may say that whilst you might have a higher and lower scale for the registration of deeds, it is hard to see how you could make that apply to subsequent searches Every particular piece of land searched against might belong to a very large estate, and in that case there is no reason why the office should have its fees diminished.

791 Have you ever considered, with reference to small estates, the proposal to establish local registries as under Lord Cairns' Act?—I have had no experience of that Act, but from what I have heard I believe it is not working.

792 But what do you think of the establishment of local registries, restricted to small interests in land?—I think it would not be desirable A general office, where all acts affecting land would appear, is more desirable. Besides, in my opinion, local registries would be open to abuse.

793 In the event of the adoption of the Ordnance denominations, you referred to certain dealings which would render it inconvenient that there should be a hard and fast rule—for instance, advances by banks—is it possible that an index of deeds provisionally registered could be prepared? Might not that difficulty be met by providing a system of provisional registration until the Ordnance denomination is ascertained?—To tell you the truth I cannot bring my mind to allow the expediency of doing that when I see the large amount of inconvenience that would follow.

794 When you say that practically you find no inconvenience from the aliases in the present system, are you not aware that by reason of these aliases that the Lands Index is in arrear?—There is not the slightest inconvenience from that First the searcher makes his search from the books down as far as they come, and how they continue them after that I don't know, but I do know that it is done rapidly and accurately, and, moreover, I never knew an instance of delay in a search being accounted for by that reason—that the books are in arrear.

795 But for the last two months you have only the security of a names search?—I would just as soon have a names negative search as a search on names and lands I consider the Lands Index of use merely as affording assistance in hunting up title.

796. The VICE-CHANCELLOR.—Have you had any experience as to recording title?—I never recorded but one, and the reason I abstained from doing so was because I always considered it was an experimental office, and the officers being exempted by statute from responsibility, I did not choose to bring in properties there. That brings me to the question as to whether the personal responsibility of the officers in the Registry of Deeds should be abolished. I never would abolish it I would rather increase it, because I think that responsibility has in a large measure conduced to the present efficiency of the department.

797. Mr MADDEN.—Would you keep up the present system of common and negative searches, or have only one search?—No, I would continue both, for small transactions a common search is only half the expense of a negative search. If recognizances, Crown bonds, and *lis pendens* were all registered in the Registry office they should be re-registered as now every five years or they should cease to be a charge upon land.

798. Mr. WALSH.—How would you propose to register these old judgments upon lands—if you register them against all the lands of the original

debtor, the result would be nugatory, for many of them have been sold out and others have been displaced?—Of course that would be a difficulty, but my idea is this—if I have a judgment marked against a client, on my acquainting him of the fact he should tell me which land he should wish to have it registered against, and I go and do that.

799. Say a judgment of 1805 against a very large family estate, it is very difficult to get advances as you know upon a judgment of that sort, but still you will find them constantly cropping up in schedules to marriage settlements, and if these are all to be brought in as judgment mortgages, the effect would be that they must be raised in some way or other?—There is no difficulty about that——

800. And there is no difficulty about leaving them alone either?—No—you might make a provision for re-registering them.

801. Mr. MADDEN.—But in the case of the older judgments is it not easier to state the lands affected?—No, because the nature of the estate may have changed entirely.

802. Mr. WALSH, Q.C.—You say that a secondary use of the Registry Acts is for the purpose of evidencing some portion of title?—Of hunting out title. I instanced a case before you came, in which I am at present making out title in the Landed Estates Court, where we have not a scrap of deed title for the mortgagee, and where by searching back, I have got—from the memorials—nearly a complete title already, and I have no doubt I can complete it.

803. Suppose a tabular form of memorial was adopted, what additional difficulty would that throw in your way in such a case?—The recitals in the memorials which you constantly find given from the descriptions in the deeds are invaluable in enabling you to trace up title

804. The VICE-CHANCELLOR.—With a view to the secondary use on which you have been praising memorials, would it not be an additional protection if you had a full copy of all the recitals in the deed?—A full copy might involve too much expense.

805. Mr. WALSH, Q.C.—Is not it the practice of conveyancers now to omit from conveyances the recitals of the antecedent title?—It is not.

806. Mr. MADDEN.—Is there not an alternative suggestion possible to leave it optional to parties to register full copies without compelling them to do so?—That is so at present. But it would not be possible if we adopted the tabular memorials unless we provided that persons registering might in addition to that deposit a duplicate or attested copy?—I think a former answer of mine bears upon that—that if you bring in only the tabular memorials, and that they are to be the basis of a future abstract book they would be an entirely useless thing, because you would have the intellect of 1,200 solicitors and their clerks employed in preparing these abstracts all differing in their general construction, and when you find that even now memorials are rejected every day because they don't comply with statutable requirements you may form some estimate of how things would be under that proposed diverse and heterogeneous system

807. You say rightly that there is nothing to prevent a person registering a deed *in extenso* now, but supposing we adopted the system of a tabular memorial or abstract, it would no longer be possible to register either *in extenso* or with the long memorial now adopted, and it has been suggested that every person registering a deed should be allowed but not compelled in addition to bringing in the tabular form—without making that compulsory—to deposit a duplicate, do you approve of that suggestion?—I would not, I think it would lead to confusion, and I am of opinion that it would be a great disadvantage to lose the benefits these memorials now give

808. Mr. WALSH, Q.C.—That is in searching as to titles?—Yes.

809. Mr. MADDEN.—That you consider a very important collateral advantage?—Yes. EVIDENCE.

810. Don't you think it would be better to have a second office where deeds might be registered in that way?—No, I think the idea rather is to consolidate everything as much as you can, so as to have a search for all acts against lands in the one office. *July* 16, 1878. Mr. J. Weldon

811. Mr. WALSH, Q.C.—But you want to search not for acts against lands, but as to the title to lands, having lost your deeds?—Such things must happen.

812. Mr. FINDLATER.—But is not the object of the Registry Office merely to give notice of dealings with and incumbrances against lands?—That is its primary object, but I think it has the secondary object I have mentioned as well.

813. Don't you think it would facilitate searches if the Registry was not clogged as it is now with lengthened abstracts giving information not coming within the scope of these objects?—I think there is no inconvenience now. If I wanted to search against the lands of Blackacre against the Vice-Chancellor for thirty years I could make it in ten minutes with my own hand and if the dictionary quinquennial index was provided as I have suggested it would only be a matter of turning over forty or fifty pages of paper.

814. Mr. WALSH, Q.C.—Then you must be of opinion that the best mode would be to register the entire thing in duplicate?—Yes, if not for the expense and for the fact that clients would object to the publicity given to their private transactions.

815. Mr. ARMSTRONG.—At present the entire of the memorial—when it exceeds the statutable requirements—is not compared with the deed?—No.

816. And therefore it is not an authentic document?—No, I think it should be seen that the memorial contains nothing that is not in the deed without requiring that it should contain everything which is in the deed.

817. Mr. MADDEN.—Would not that cause delay?—I think not. Of course—as a general rule no one thinks of including the limitations of the deed in the memorial, and then it would be a very easy matter to compare the material parts.

818. Is it not one of the disadvantages of memorials—that they stop short just there—at the limitations?—I think not

819. The VICE-CHANCELLOR.—You would have a comparison so as to make it certain that the memorial, so far as it goes, was a true representation of the deed?—Yes.

820. Mr. MADDEN.—Would that not materially clog the working of the office?—It would necessitate the having of additional clerks. I would also suggest that there should be better accommodation provided for the public The accommodation for searching now is a simple disgrace

821. Mr. ARMSTRONG.—You referred to the fact of a great number of memorials being from time to time rejected from inaccuracies. Don't you think it would be desirable to have a provisional registry for cases of that kind?—I think it would complicate matters and if persons are not careful, let them take the consequences

822. Mr. JOHN BALL GREENE, *Commissioner of Valuation*, being requested by the Vice-Chancellor to give his evidence in the form of a statement, said:—What I should wish is to show the information we possess at the Valuation Office, and I think the best way to do that would be by giving a few practical illustrations. Taking for instance this Ordnance sheet, No. 50, of the County of Antrim, Union of Antrim, you find all the townlands clearly defined, and the Valuation Index which refers to it shows the holdings on each townland, with the occupiers' and immediate lessors' names, and quantities of land held by each, and the valuation of each portion or field. This was done by surveyors, who Mr. John Ball Greene

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perambulated the lands and marked out the boundaries of every holding on a map. That map came in, and the farm boundaries on it were transferred to another sheet; and the holdings so defined appear correctly on this map. Taking one of the townlands on it, Rathbeg, as an example, we find that there is a farm there, marked out by a red line, stated to be No. 1A, occupied by John Ferguson and his immediate lessor is stated to be Mr. John Alexander, who is also stated to own other portions of that townland. John Ferguson is stated to have three cottiers' houses —one occupied by James Beresford and John Ferguson, marked 1B; and one by Edward Gordon, marked 1C; the third, marked 1D, being "unoccupied." Then farm No. 2 appears to be held by Thomas French from John Alexander—and so on through the townland, the boundaries of each separate holding being shown on the map, and the quantities of each farm accurately stated, and the area of the townland shown by the tot of them all, as 178A. 2R. 6P. There are 68,000 townlands in Ireland all dealt with in that manner, the indexes being according to the Poor Law Unions. Those maps may be relied upon as being strictly accurate, for we go over Ireland once every year to correct them as to change of owners, boundaries, &c. If any changes occur, they are reported to our office, and we send men all over the country to make the necessary alterations on the maps. That is absolutely necessary, otherwise the whole thing would get into confusion.

823. Mr. WALSH, Q.C.—You correct alterations or changes in tenancies, and so forth?—Yes.

824. But there is no alteration made in the boundaries of townlands?—Yes; sometimes that is done too, for the purpose of straightening boundaries, arising from changes of streams, agreements among proprietors, and so forth. Last year we recorded, *in all*, 140,000 changes.

825. Mr. ARMSTRONG.—And didn't they include alterations in the boundaries of townlands?—No; that is done under another Act of Parliament. Where boundaries of townlands have been straightened, or where boundaries have been affected by drainage operations, or reclamation under the Act, we note those changes, and send the corrections to Major Wilson, who engraves them on Ordnance maps, and we adopt them for the valuation.

826. But, as a matter of fact, isn't there a revision of townland boundaries periodically?—No.

827. Suppose part of the lands of Blackacre were included in the lands of Whiteacre, would there not be an alteration made?—No alteration is made, save in the manner I have told you of.

828. The VICE-CHANCELLOR.—Have you ever considered whether it would be convenient to make the Ordnance survey a basis for the registration of deeds?—It strikes me that it is the only system you have to rely upon. You have every townland defined there, and well understood. The names are now very generally known, and I see no difficulty in the way of its being adopted.

829. In your valuation books are the names of the townlands, as appearing on the Ordnance survey sheets, adopted?—Yes.

830. And without any alias denominations?—Yes, unless there is one on the Ordnance map—then we adopt it.

831. And is all the Poor Law rating, and county cess rating, throughout the country made on the basis of your books?—Yes; every description of rating—income tax, land and property tax, municipal rates and county rates—in fact, every rate or tax.

832. Are the denominations of the townlands on the Ordnance survey now quite familiar with persons in the locality?—Yes; I think they are fairly well understood.

833. Mr. WALSH, Q.C.—I suppose compelling parties to pay taxes upon the townlands is a very good way of making them know the names of those townlands?—Yes. It might be interesting to know the number of changes that go on every year. I made out a list of the alterations that took place in our valuation books, and which were entered upon the maps. For instance, in 1876 there were 67,495 changes of names of occupiers, 30,822 changes of names of immediate lessors, 12,268 changes in areas and valuation on the division of farms; 6,762 farms were consolidated; 3,999 buildings were thrown down in rural districts, and 2,241 in towns and cities; 4,080 new buildings were valued in rural districts, and 3,947 in towns and cities; 2,617 buildings were improved and revalued in rural districts, and 2,202 in towns and cities; 1,559 buildings had become dilapidated, and the valuation was reduced, in rural districts, and 1,340 in towns and cities, and 749 railways, gas-works, fisheries, or other properties of a variable nature, were revalued—making a total of 140,081 changes in that year.

834. The VICE-CHANCELLOR.—In what time?—In one year viz. 1876, and all these are registered. When a farm is divided or amalgamated with another the fact is at once reported, a change made on the map and in our books and when in process of time, any map becomes used up, we put it into store, so that any time a reference will show how particular lands there dealt with stood years before. Mr Scott, one of my staff, has brought some maps lest you should wish to see how changes are registered. [Sheet 16 of County Antrim produced, and the mode of recording changes explained].

835. How often are the maps made out in that way?—Every year.

836. Can those maps be purchased by the public?—No, I think only a limited number is printed and principally for the Valuation Office.

837. Major WILSON.—You get twenty-five copies?—Yes.

838. The VICE-CHANCELLOR.—Would there be any difficulty in printing them off in large numbers, so that they might be sold like the ordinary Ordnance maps?

839. Not the least I believe; they would have to be re-lithographed, that is all.

840. The VICE-CHANCELLOR.—How many sheets are there?—There are 1,907 of the six-inch sheets.

841. For the entire of Ireland?

842. Yes, for all Ireland.

843. Dr. LONGFIELD.—Are you sure those cannot be purchased now in that shape?

844. They cannot, I understand.

845. Mr. *Greene*.—This is a combination of the tenement valuation and the ordnance survey and those changes that I have spoken of are carried out every year. In addition to this we have the names of every landlord and occupier.

846. Mr. FINDLATER.—Have errors been detected in those sheets?—It is of very rare occurence to find an error. It is a wonderfully accurate survey. The way these townland boundaries were first marked out by Sir Richard Griffith was this; he applied to all the proprietors in Ireland to name meare-men for the purpose of defining boundaries, and for maps of their properties from such as had them. With that double guide, the maps, and the meare-men generally, the oldest inhabitants that could be found, men who knew the place best, the boundaries were ascertained and laid down. Then such as felt aggrieved had a right of appeal from Sir Richards' decision.

847. Mr. WALSH, Q.C.—Read from Mr. Maunsell's evidence questions sixty-five and sixty-six with the answer thereto and asked, is such a state of things possible?—I think not. I should like to look into that case, and, if possible, trace out the whole history of it.

848. Dr. LONGFIELD.—Would there be any difficulty in the way of an owner in the enjoyment of an estate finding out the ordnance denominations of his own property, in case he wanted to convey them?—I think not, with these sheets and this blue book (a valuation index).

849. That would do in the case of a superior land-

lord, but there are middlemen?—Well we print the names of the immediate lessors, but for our own purposes we keep up the head landlord's names also.

850. THE VICE-CHANCELLOR.—Are copies of your valuation lists sold to the public?—When they were printed they were on sale, but now they are all in manuscript The changes are so numerous that to print the book would be practically useless, and very expensive The cost would be enormous.

851. But for the purpose of ascertaining the townlands and denominations, one of those printed books would do?—We have all the townlands printed separately—there is an index giving for each county, the parish, barony, electoral division, and townland, &c

852. And can any person dealing with any portion of land obtain the information which your valuation books would give?—Yes; and we are in the habit of giving certificates for that purpose from the books. If a property is going to be sold or dealt with, the parties interested come to our office, and on a reference, obtain a certificate of the area, valuation, parish, barony, and county in which the particular lands are situate. We charge a small fee for that, which is returned to the treasury.

853. Are your valuation lists sold to the public?—They are of very little use now, for it is some twenty or thirty years since they were printed, and the whole country is changed since then. This valuation system commenced just previous to the famine years, and we know the changes that the country has undergone since. Therefore these printed books are of very little use, but we have books in manuscript corrected every year.

854. An objection has been made to using the Ordnance Survey as a basis of registration on this ground, that there would be a difficulty in persons not acquainted with a property identifying the lands with a particular Ordnance survey, particularly in cases where there are denominations with the names by which the lands were formerly or more generally known, not corresponding with the denominations in the Ordnance Survey, could that be got over, or is it a practical difficulty?—I don't see why it could not be got over. I have known of cases in which the Ordnance denominations did not correspond with those ordinarily used—there was an instance of that in the Queen's County not long ago, but on inquiry, and when we traced the thing back, we discovered and proved that the Ordnance denomination was the correct one.

855. I believe there was great care taken in the Ordnance Survey Department to ascertain the proper and accurate denominations?—Yes [Book produced by Major Wilson] This shows the trouble taken, here you have, for instance in the case of the townland of Rathkeale, the old Irish name in the Irish characters, and the different variations in it, together with the authority on which these several names were entered, together with a description of the boundaries and of the character of the lands. I think it is a most wonderful survey, and it is certainly most accurate.

856. It was said that if for the purpose of registration it was necessary to state either in the deed or in the memorial the name of the lands as on the Ordnance Survey, together with a reference to the particular Ordnance sheet on which the denomination appeared, that there might be great difficulty in preparing documents, such as mortgages or other deeds, which may require to be done in a hurry, caused by persons not being sufficiently acquainted with the lands. Do you think that is a practical difficulty?—Certainly not, because if they come to our office and take our books as a guide they will find opposite the owners names, the Ordnance denomination. We do that constantly for the purposes of the Landed Estates Court, and we never have an appeal because of inaccuracy in the contents. There are 20,819,967 acres of land so registered in Ireland, and there would be no difficulty in ascertaining how many "A B," or "C D" owns, together with their Ordnance denominations, and the number of the sheets on which they are registered.

857. But in country places where there is not facility of access to your books, would there be any difficulty?—No, because copies of our books are under the statutes deposited in two places in every county in Ireland—in the Poor Law Union and the County Treasurer's Office These, too, are corrected every year. In our office books we show the "barony, parish, county, union, electoral division, reference to map, occupiers' name, immediate lessor, description of boundaries, area, value of land, value of buildings, total, and observations" The copies issued to the Poor Law Unions and County Treasurers do not give all these details, but they do show the Ordnance denomination, situation, area, and valuation of every man's holding. From these the county cess and union rates are computed or arranged. So that sufficient information can be had of ready access in two places in every county.

858. Mr. WALSH, Q.C.—And if persons object to the valuation they have a power of appealing against it, which is an additional safeguard?—They can, but they very seldom do

859 Mr FINDLATER — Isn't there good reason for men reporting changes in their holdings to your office, so as to prevent their continuing liable possibly for the rates of lands they have parted with?—Yes, if a man for instance parts with a few acres of his farm, it is his interest to, at once, let us know, because his taxation will be reduced in proportion. Again the clerks of unions are bound by Act of Parliament to notify changes to us, and then we send men to examine the lands, so that with the tenement valuation and the revised Ordnance Survey, there is the most complete basis for a registry in Ireland that could possibly be devised

860. The VICE-CHANCELLOR.—Is there any index kept by you of the names of proprietors or occupiers?—We have the names of all the proprietors and occupiers throughout Ireland in our Valuation Books

861. But are they indexed, alphabetically or otherwise?—No, but it was I who first made out what is called the "Doomsday Book," and there the names of the proprietors are given alphabetically for each county, together with the area and valuation of properties.

862. And the names of the townlands?—No.

863. Would there be any difficulty in preparing an index of the proprietors in Ireland stating the different townlands?—No, because we have the Ordnance Survey index and we could write it opposite that.

864 What index do you speak of?—An index to all the townlands in Ireland arranged alphabetically. In it you have the county, parish, barony, poor law unions, and electoral divisions—I think they added the electoral divisions lately on my recommendation.

865. Suppose that Richard Smith wants in a great hurry to borrow £1,000 from a bank on the security of his property in the County of Cork, and that the bank requires to get from him an instrument which they can register, and that the basis of registration is the townland unit and the Ordnance Survey Map—how would the difficulty be met, that has been raised, of not being able to procure the information in a hurry to enable him to state expressly in the security the name of the townland appearing on the ordnance map and the number of the sheet on which the lands are delineated?—In a case like that if they refer to our office, as is done by the Landed Estates Court, I could ascertain exactly the number of acres and the ordnance name of the townland, and give a certificate by post.

866 But if he wants it in the country on that day?—Then he can get it at the Poor Law Union, or in the County Treasurer's Office.

867. I suppose there would be no difficulty in multiplying copies of material parts of your books for the purpose of registration?—None whatever, in fact it would be a very good thing to have that done, I think it would make the system much more perfect.

868. And can the proprietor of an estate now procure from your office on payment a copy of your

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valuation lists as to his own estate?—Yes, and a great number of proprietors in Ireland do, as a matter of fact, get copies of these maps and of the valuation to correspond. In some of the large estates they are sent up to us once a year to be corrected from our lists, so that the agents may know the exact proportion of poor rate to be deducted. It is an everyday occurrence.

869. There is, then, nothing to prevent a man keeping by him, at a very small expense, a copy of so much of your valuation lists, together with the ordnance sheets, as refer to his own estates?—They can get it for a mere trifle.

870. And at a moderate charge, too, these may be corrected with your books from time to time?—Yes, for a very small sum, and, as I say, the principal proprietors in Ireland have got copies of them already.

871. Which they get checked every year?—Yes, otherwise their agents would be puzzled in deducting the poor rate.

872. But, as I understand, this new system of lithographed maps of the boundaries of farms, has not been as yet made available for the public?—No, that was done chiefly for the purposes of the Valuation Office. We get 25 copies of each sheet.

873. And in your office would they mark the boundaries of farms on the ordinary ordnance survey sheets so as to correspond with these you get?—Yes, it is frequently done for parties.

874. MAJOR WILSON.—It is done almost every day for the Landed Estates Court?—Yes, if there is an estate for sale the first thing they do is to bring into our office the ordnance maps, and from our valuation maps and lists we find out the boundaries exactly of the property about to be sold, which are put on the ordinary maps and returned to the party. If there is to be a general register, I don't see anything but the ordnance survey for it, it has become so well known and is now of such extended use.

875. State for the information of the Commissioners how the townland boundaries were first defined?—They were, as I have already mentioned, ascertained by Sir Richard Griffith thus:—A number of land surveyors were sent to perambulate the boundaries of every townland, and make sketch maps of each. Not only were the boundaries marked out in that way, but the character of the boundary was indicated; if it was a little stream, the centre was taken as the bound between one townland and another; if a ditch, it was put down to the face of the ditch, and if a fence or wall the centre was taken. The sketch maps so prepared were lodged in a particular place, and the proprietors who named their own meara-men to show the boundaries had a power of appeal to the sessions against both the name given on the map and the boundaries as defined there. Of course there were some appeals, but the boundaries all over Ireland were settled in that way.

876. With regard to the revision of the townland boundaries, can you give any information?—Since the famine period, the reclamation of land improvements by straightening rivers and changes of that nature were of frequent occurrence. For instance a great number of rivers went zigzag, and the proprietors having, by arrangement, straightened their course it was found to be awkward to have a bit of land on one side and a bit on the other side of the stream, so an Act of Parliament was passed to make those changes more convenient, and now proprietors exchange one piece for another, the boundaries being readjusted on the Ordnance sheets. If, however, a change involves the taking of a bit of land from one county or barony, and placing it in another, the matter must go before the Privy Council whose order redefining the boundary becomes law.

877. But as to townlands?—Whenever a townland boundary was altered, we corrected the old boundary on the sheets.

878. And did that become by statute the townland boundary?—Yes.

879. Dr. LONGFIELD.—What you did however, did not alter the right of private property?—No, it was only for the purpose of taxation. I should mention, however, that in all these cases where it was proposed to straighten the boundaries on the give and take principle, we sent a tracing showing the alterations proposed to the proprietors interested, and got back in every case the sanction of the landlords on both sides. The landlords generally agree to an exchange of one bit of land for another and adopted the new boundary.

880. I suppose the amount of property affected by those changes has been very small?—Small bits; but about Londonderry, for instance, there have been large "intakes," as we call them—great slob lands reclaimed which have been brought in and valued necessitating changes there.

July 23, 1878

TUESDAY, JULY 23, 1878.

Lieut.-Colonel Leach

Lieut.-Colonel G. A. LEACH, R.E., examined.

881. To the VICE-CHANCELLOR.—The Commissioners, it appears to me, have three points to consider—First, whether they will have registration of title, which is what is carried out under Lord Cairns' Act in England; or, Secondly, a registration of title such as I have proposed, with a subsequent registration of all transactions affecting the registered lands pending transfer; or, Thirdly, to continue a registration of deeds pure and simple.

882. I presume your recommendation is a registration of title such as is contained in this book (a pamphlet of Colonel Leach's published in June, 1878)?—Registration of title, with a subsequent registration by the parties themselves of every transaction relating to that title on an "Official Register" to be retained by the owner of the property. Considering the question as I had to do with reference to England, and having regard to the enormous number of properties there are in that country, and of deeds executed daily—amounting to nearly one thousand a day—I considered very carefully how it could be possible to work out an efficient system of registration which, instead of being all carried out in one office, could be spread, as it were, over the entire country, and put into the hands of the solicitors who now, in fact, do the work. I was, at the same time, desirous that the plan should tend to clear the titles, and therefore suggested that the principle of Lord Cairns' Act should be taken as a basis; and according to paragraph eight (*a*) of this book you will see that I propose that "the Land "Registry Office shall continue as at present, to give "absolute, limited, or possessory titles, the unit of "registry being each separate property." I am not quite sure as to whether the term "limited" is correct, but I have taken it because it appears to me to be the best. By "limited" title I mean a title for a given number of years, but not an absolute title. My proposal is that every owner of land when he deals with it should take out a certificate at least of a possessory title, which would be given to him at a very small cost, and that upon this certificate all subsequent transactions relating to the lands should be recorded; it would thus be a registration of deeds pending the next transfer. This registration would be made by the parties themselves on the certificate which I have called the "Official Register." In it every subsequent transaction relating to the land should be recorded, just as they are now recorded in the Registry of Deeds Office, and a copy of each record should be sent to the Land Registry Office. That should be done for the prevention of fraud, for if the record were left entirely in the hands of the owner of the property he might

(*a*) Post p. 54.

attempt to make alterations upon which there would be no check, but if there was a copy of it in the Land Registry Office anyone attempting fraud would do so with the certainty of detection. Fraud would be mechanically impracticable, and there would also be the moral check which certainty of detection would afford. I have given the forms at the end of this book, (*b*) and here is an example on parchment of the proposed "Official Register." (Produces a document and map No. 11,651, post p. 70.)

883. This is the official register given by the Land Registry Office to the owner?—It is an example of the official register of possessory title. It has a map attached to it, and shows what the title is and the property to which it refers. The map attached I consider essential. There would be no difficulty in Ireland arising from that requirement, for you have the Ordnance Survey, upon which the lands could readily be defined. The lands registered under Lord Westbury's Act, of which there are about 400 estates, are all mapped out in that way, and we have had something like 2,000 cases of transfer from these maps. We have never had the slightest difficulty, and, as far as we know, we have never had a mistake. There have been mistakes made by the parties registering, but we have invariably discovered them.

884. MR. LANE (Secretary).—If that piece of land (No. 1) was to be sold or transferred would you make any reference to the number of it?—No—the deed would show the lands—the entry on the "Official Register" should be as short and simple as possible, sufficient only to identify the deed. The first entry is to John Brown, as the owner in fee simple, with a possessory title dating from the 21st day of July, 1878.

885. The VICE-CHANCELLOR.—On what evidence would the Registrar make that entry? Would it be under the provisions of Lord Cairns' Act?—Under provisions similar to those of Lord Cairns' Act. I think that steps should be taken to prove that he is actually in possession.

886. Would you consider an affidavit on the subject sufficient?—An affidavit made by the owner himself. I don't think there would be any difficulty in taking steps to prove that any person claiming was actually in possession of the lands, and that is all you would require to be proved—that he was in possession of the registered property. That is all that the Registrar has to do. It will be observed that the "Official Register" is stamped by the Inland Revenue. The stamp would be a special stamp which nobody could obtain except the Registrar. Secondly, there would be the stamp of the office.

887. Under what obligation is he to be bound?—That of Priority; precisely as he is now bound to register Deeds. Of course the person with whom an owner is dealing, will for his own sake take care that a correct entry is made on the "Official Register," and that a copy is sent to the Registry Office. I have so stated that in paragraph nine of my book. A transaction would lose its priority if it were not entered, just as it would now lose its priority if it were not registered in the Registry of Deeds Office. If it were thought desirable to send copies of the deeds as well as these entries to a Land Registry Office, there would be nothing to prevent that being done.

888. Would you have the entries made on the responsibility of the owner and of the person dealing with him, or on the responsibility of the registry officer?—On the responsibility of the owner and of the person dealing with him, the principle of my plan is that the parties should make the entries themselves. If a man will not take the trouble of seeing that the entry is perfectly made of course he will suffer. I have made the entries as simple as possible in order as far as possible, to avoid risk of mistakes, and for this reason it is not required that the lands dealt with shall be specified in each case on the "Official Register; these entries must be considered merely as notices, whilst the deed is really the fountain to which you must go for the title. If there should be a small error in the notice thus given whatever court should be established should have power to say whether that error should invalidate the entry.

889. How would you propose to enforce the obligation of transmitting the copy of the record made upon the Official Register by the owner and the person dealing with him to the Registry Office?—As a statutory obligation; it would clearly be for the interest of the person who is dealing with the owner to see it carried out for his own protection.

890. What would the consequence be, according to your plan, of the omission to transmit the copy, or to have the record entered in the Lands Registry Office, if it was entered on the official register?—As the Official Register in the hands of the owner would be the original, it would be a point for further consideration whether this omission should destroy the priority; but such omissions would be corrected from time to time when subsequent transfers were made of the property when the Official Register would come, necessarily to the Land Registry Office, when a new Official Register was given to anyone acquiring an interest in any portion of the property originally registered.

891. Supposing acts were recorded on the Official Register in one order of priority, and in the Registry Office in a different order of priority, which should be operative?—The Official Register in the hands of the parties, which would be the original. When the system was fully in operation I have no doubt dealings would take place with land on the faith of the Official Register without reference to the Land Registry Office provided the parties were known to each other. With regard to the question asked a short time since by Mr Lane, namely, what would be done with regard to the map in the case of a transfer of a small portion of land such as that numbered one on the map on the Official Register. I should not propose to touch the map at all, the map once made, and in the hands of the parties, would remain unaltered, there might be difficulty and errors made if the parties altered the maps; it should be left to each deed to show what portion of the lands it transferred, and anyone dealing with the lands subsequently, would of course see the deed. The Official Register would merely give notice of the deed, which would speak for itself.

892. By your plan I see that only the quantities of the land in the Register afterwards disposed of, appear on the Official Register?—Yes, only the quantity not the actual position of the lands. I don't specify the boundaries, or mark them off on the map. I merely state a certain quantity. The deed would show the lands.

893. It will then appear only that certain portions of the lands have been disposed of or are incumbered, and not the whole?—Quite so.

894. Mr. MADDEN.—Do you propose that as soon as the entire land comes absolutely (or for whatever estate may be registered), into the hands of a new person, there should be a new Official Register opened?—Certainly, as soon as any portion is transferred a new Official Register would be issued to the transferee by the Land Registry Office.

895. The VICE-CHANCELLOR.—Or in the case of a sale out and out?—In the case of a sale out and out, as a matter of course, the purchaser would take out a new Official Register. It would be necessary then that there should be an investigation by the court in order to give him title, and upon such an investigation being made he would receive a title from the date of the original registry.

896. Mr. MADDEN.—Then on the opening of each new title sheet on the registry you would go back to the court for investigation?—The Official Register should go back to the court for investigation, and the purchaser would receive a clear title back to the

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date of the original registry subject to existing charges. In that way we should do a great deal towards clearing up titles—that is all the previous deeds would be cast aside, except those remaining against the estate. It is clear that what you want to accomplish is gradually to clear up titles. Titles have in many cases become extremely complicated, and my object is to clear those titles gradually without unnecessarily disturbing existing arrangements.

897. The VICE-CHANCELLOR.—Might there not be a difficulty in your plan in this way. Suppose a mortgage is made by the registered owner—I presume that according to your plan, the mortgagee would be entitled to demand the custody of the Official Register?—It would be better that the Official Register should remain with the owner. But there is no special reason why the Official Register should not go with the title to the mortgagee.

898. If the owner should make a further mortgage what would have to be done then?—He must do precisely as is done now, namely, get the deeds from the first mortgagee.

899. But suppose the first mortgagee refused to give them up?—He would be in the same position precisely that he would be in now.

900. Now he can execute the second mortgage without the title deeds. If there be a registry of deeds he can execute the second mortgage without having possession of the deeds and handing them over to the second mortgagee; and that second mortgage will be registered in the Registry of Deeds Office, and rank according to its priority?—If a second mortgagee was willing to lend without any investigation of title, he could still do so with equal security, provided his mortgage was entered on the Official Register. As I said before, I should prefer not giving up the Official Register; I don't think it would be necessary to do so. If it were given up, there should be a covenant in the mortgage that the owner should have the power of having it produced if necessary, just in the same way that you covenant for the production of title deeds. But I think it would be very much better that the Official Register should not be given up.

901. Mr. MADDEN.—That would be the most logical way of working out the system. The great object of handing over title deeds to mortgagees would be done away with when you got Official Registers, because they could not be dealt with?—They could only be dealt with subject to the prior charges. The first mortgagee would be perfectly protected against fraud by the copy of the Official Register in the Land Registry Office.

902. The VICE-CHANCELLOR.—The great protection given to the mortgagee in England is the handing him the deeds. If your system should be adopted, it would not be necessary to give him the deeds. He would only have to inspect the Official Registry, and he would find by it what the position of the title was?—The Official Register would give notice of any prior charges.

903. There would be nothing to prevent the title deeds from being handed over to the first mortgagee, provided the Official Register remained in the hands of the owner?—Nothing whatever. The mortgagee, having seen that his mortgage is entered in the Official Register, is required to do nothing more.

904. Might he not also secure himself by having a duplicate or copy of the record transmitted to the public office, and entered there?—He would be bound to do that.

905. I am still not able quite to see one point of your plan. Supposing that the party dealing with the owner of the land sees that his transaction is duly recorded upon the Official Register in the owner's hands, by what obligation can you require him to send up a copy of that Official Register to the Land Registry, provided the Official Registry in the owner's hands is to regulate the priorities and not the Public Registry?—You can make it a statutory obligation that he should do it, but he may omit doing so, no doubt from carelessness.

906. Under what sanction would you make it a statutory obligation?—I should make it a statutory obligation that each transaction should be entered on the Official Registry, and a copy of the entry sent to the Land Registry Office.

907. But you must have some consequence to follow, or disadvantage if it be not done, in order to enforce the doing of it?—I am not now quite prepared to say how that can be done, or what penalty should attach for not doing so. No doubt, means could be taken of compelling it to be done.

908. Mr. MADDEN.—Is there very much practical importance in having the proceedings between the opening of one register and the opening of another sent up to the Land Registry. Don't you contemplate that purchasers or mortgagees should deal on the faith of the Official Register?—Certainly.

909. You don't contemplate a search in the Land Registry Office?—No, I should expect that a great many transactions would be completed merely upon the faith of the Official Register. But it would be extremely desirable, and, I may say indispensable, that there should be a copy of it in the Land Registry Office, for the purpose of preventing fraud so that any person who had the least suspicion or mistrust might by application to the Land Registry Office ascertain whether there had been forgery or alteration in any of the entries.

910. Would it not be possible to invalidate the entry upon the sheet of the Official Register in the event of within a fixed period—say a fortnight—default being made in the sending up of a copy to the Land Registry Office?—It would require a good deal of consideration before deciding whether it would be desirable to do that or not. I have purposely, in drawing up my paper, not entered into those details. I have not the least doubt that a way could be found to meet such a point as that.

911. The VICE-CHANCELLOR.—What would you propose to do when there was a sale out and out, as appears for instance in the last transaction in this Official Register?—I would propose that the purchaser should obtain a new Official Register, starting from the date of the original Registry and subject only to existing charges.

912. The commencement of your title would be carried back to the original official register of this particular property?—Certainly.

913. Would you propose that the official registry when a sale out and out takes place should be sent in to the General Registry Office or remain still in the hands of the party?—Probably it would be handed over to the purchaser, but it would be of no importance because he would get a new official register of the title to himself. It would probably be handed over to him with the rest of the deeds, although it would be really of no value.

914. Do you wish to state anything else?—Suppose it to be deemed desirable that besides an Official Register copies of the deeds should be sent in to the Land Registry Office. I have here a specimen of a mode of copying which I think would become extremely valuable. Mr. Lane obtained for me from the Registry Deeds Office here a copy of a memorial. Here it is reproduced, and what you see is not only a copy, but a *fac simile* of the copy Mr. Lane sent me. It has been copied by the Aniline process, by Messrs. Day and Son the lithographers of London; and they told me that if they had 100 of these to copy in a day they could produce them for a shilling a piece without any difficulty. Of course if documents are to be copied it would be a great advantage that *fac similes* of them should be taken without any possibility of mistake. By the process 1,000 documents could be copied in a day without any difficulty. You might thus copy an original deed, keep the original in

the Registry Office, and give the *fac simile* to the owner, which is practically all that he would require.

915. MR. WALSH.—Is the copy likely to last?—I think so. This is on paper. Whether a copy could be produced on parchment I don't know. I had a copy as good as that taken from a parchment deed.

916. It looks faded?—It is not faded. It is clear but does not come out stronger than that.

917. But supposing the deed to be copied should be of a large size?—There would not be the slightest difficulty in copying one of any size.

918. Many deeds are done at present on large skins of parchment, and some in the form of books. How could the copying process be applied to books?—The sheets could only be copied singly.—The copy made will be a *fac simile* of the thing copied. This is precisely the same size as to writing and otherwise as the document sent me by Mr. Lane.

919. MR MADDEN.—Would the process require that the original should be written only on one side?—That is essential.

920. But a great many engrossed deeds are on two sides?—If it were decided to have the original deeds copied it would be necessary to provide that the deeds should be only on one side. Of course there might be cases in which that direction would not be attended to, and then you would have to resort to the ordinary process of writing, but probably in ninety-nine cases out of every hundred the parties would attend to the instructions issued from the Registry Office.

921. THE VICE-CHANCELLOR.—Where you want only a few copies could that process be made use of to more advantage than printing?—I think if you wanted many copies and did not require that they should be *fac simile* copies then printing would be the best decidedly. This is applicable only when you want one or two *fac simile* copies.

922. Are you aware that now the memorials are all transcribed in the Registry of Deeds Office here?—Yes.

923. Could that process be applied to the copying of them in place of transcribing and have the advantage in respect of expense, time, and accuracy?—Certainly.

924. MR. WALSH.—How would this be as to permanency?—I have no doubt as to the permanency of the copies. I have copies of similar documents made seventeen years ago which are perfect. I looked into the matter very soon after the process came out. There was some little difficulty in bringing it forward at first as the cost was rather large; but now in consequence of the process having become known, the cost is very much smaller, and it is coming more into use.

925. MR MADDEN.—This Official Register is headed with the words "Possessory Title," but Lord Cairns' Act contemplates both absolute and possessory titles; and I gather that you propose to open this register not only in the cases of possessory, but also of absolute titles?—Certainly. Some of the best titles in England at the present time are those to lands which have been sold by the Inclosure Commissioners to pay the expense of enclosure. Under the Inclosure Acts we give parliamentary titles—which are in point of fact, absolute titles.

926. THE VICE-CHANCELLOR.—Precisely as the Landed Estates Court here does?—Precisely.

927. MR WALSH.—This pamphlet applies altogether to land registration?—Certainly.

928. You propose that it should give an absolute, a limited, or a possessory title, but you do not propose to give such according to particular boundaries?—Following Lord Cairns' Act I do not propose that the map should be conclusive as to boundaries against adjoining owners.

929. MR WALSH.—The Landed Estates Court, not only confers parliamentary title, but so fixes the boundaries of the land conveyed as to exclude the possibility of dispute with contiguous owners—*i. e.*, it effectually prevents those part and parcel questions which give rise to the most expensive kind of litigation. That appears to me, to be one of the great difficulties of Lord Cairns' Act.

930. Have you any suggestion to make by which the defining of boundaries as now carried on by the Landed Estates Court could be applied to your plan, or any reasons why, as in Lord Cairns' Act, it should not be attempted?—I established such a system under Judge Longfield, which is still, I believe, followed, and when I was asked to undertake the same duty with regard to Lord Westbury's Act—(the Act of 1862)—in England, I carried out precisely the same system of defining boundaries accurately as was done here. That system was altered in Lord Cairns' Act, because of the difficulty and expense of giving notice to all the proprietors of the surrounding properties, and of requiring the attendance of all those persons, or their representatives, on the ground, and of sending them tracings of the boundaries we were going to register against them. It also often raised difficulties and objections as to boundaries which might otherwise have lain dormant, or to use a common expression, "roused sleeping dogs." It was therefore thought better under Lord Cairns' Act, to provide that although the property was to be described as accurately as it could be, it was not to be conclusive as against adjoining owners, in respect of extent on boundaries. I would refer to the experience of exchanges made by the Inclosure Commissioners, which number about 6,000. All descriptions of the land we deal with are by map. We give no verbal description, but describe by map and schedule. The maps are furnished by the parties, and examined carefully in the office. In the whole of these 6,000 exchanges we have never had any difficulty as to boundaries. I would propose that a map department should be attached to the Public Registry Office, which should do precisely with the properties brought for registration as the Inclosure Commissioners have done with regard to exchanges. If such precautions were taken experience shows that difficulties as to boundaries would be very rare.

930 *a*. The VICE-CHANCELLOR.—In Ireland do you think that could be supplied by the Ordnance Survey?—It might. The Ordnance Survey is at this moment in connexion with the Landed Estates Court, and I don't think there would be the slightest difficulty in defining the lands to which the titles were applied.

931. MR WALSH.—In making the thing so accurate you "might rouse the sleeping dogs?"—We would say to parties "we don't make this absolute as regards boundaries as against adjoining owners"—and so we would not rouse the sleeping dogs.

932. MR WALSH.—The Incumbered Estate Act contained no provision dealing with rights of way or other easements. To remedy this defect the Landed Estates Court Act, by sec. 54, provided for the ascertaining and securing such rights. Do you purpose to deal with such rights, or to leave them unprovided for as in the Incumbered Estates Act?—To leave them unprovided for.

933. Why?—I think Lord Cairns' Act did not deal with easements at all—and my own feelings are very much against dealing with easements. I think you would complicate matters greatly by introducing questions of easements. There are so many kinds of easements that all sorts of difficulties might arise if you dealt with them, and in my opinion they would be better let alone.

934. The VICE-CHANCELLOR.—As I understand your proposed plan it does not confer a title or affect title in any way, but only operates as a record of acts by way of notice?—It does not confer any title unless you register originally a limited title or an absolute title; but it does this—that a possessor's title will by time become an absolute title, and it does not affect the part and parcel questions in any way but leaves the decision of them to the deeds.

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935. And it does not affect the question of easements?—Easements might be specified and defined in the deeds, but they would not be noticed on the Official Register.

936. The VICE-CHANCELLOR.—You are very well acquainted with the circumstances of this country; and having regard to those circumstances, and to the much fewer number of deeds to be registered than in England, and the existence in this country for so many years of a system of registration which people are so familiar with, do you think it would be more for the interests of this country to adopt the new system you propose than to improve the present system, as far as may be, in its working?—I think that the system I have proposed would be a better system for registration here than the pure registration of deeds, as it would, as I have said, gradually clear the titles. The Registration of Deeds does not clear the titles, and as there is a Landed Estates Court which has all the power necessary to clear titles, I think that by a combination, as it were, you would vastly improve your titles within a given time.

937. What do you mean by combination?—Putting the Registry of Deeds under the Landed Estates Court, and carrying out by such an arrangement the system I have proposed. I would combine the Registry of Deeds and the Landed Estates Court in one office; but the details of combination, of course, I have not considered.

938. For what purposes would you combine them?—I should combine them that the Judges of the Landed Estates Court might deal with the titles. You could not give a title or Official Register without investigation under a Court.

939. Then I presume you would put the Landed Estates Court into the position of the Official Registry in England?—Yes.

940. Is your system capable of working independently altogether of the statutory provisions converting limited title, or possessory title, into higher title?—Certainly.

941. And if no statutory efficacy were to be given in any way similar to that given by Lord Cairns' Act would not your system equally apply to the working of possessory titles?—Certainly.

942. If a title were never, except by the operation of the Statute of Limitations, to become better than it was at the time at which the first of those official registries of title commenced, still it would answer the purposes you contemplate by showing conclusively all the subsequent dealings with the lands?—Certainly.

943. And therefore, supposing that the Statute of Limitations alone was operating, without the assistance of an Act like Lord Cairns' Act, it would practically become an absolute title by the operation of that statute and by the history of the title from the time the registration began?—Yes, I have so stated in paragraph 12 of my pamphlet.

944. The VICE CHANCELLOR.—Quite so. That shows that your system applies to all?—The intention is not to put the owners to any expense that can possibly be avoided in taking out possessory titles.

945. Your system would be a complete substitute for the present system of registration of deeds during the period covered by your official titles?—It would. It would be a registry of Deeds made by the parties themselves. That is the intention. It is taking a medium course between the registration of title alone, and the registration of deeds alone, the only statutory efficacy which would be required would be in reference to priorities.

946. Have you seen Mr. Brodies' Scotch search sheets?—I don't think I have seen any of them, but I know what they are. It has been asked whether it would be possible to forge these Official Registers. Now the protection is that it would be extremely difficult to forge the special Inland Revenue Stamp. The machinery requisite would be costly. The stamp of the Land Registry Office would also have to be forged, and machinery provided for that also. Again you would have to get the form, and you would require machinery for printing it; and you would require a variety of people to do all these things. In addition there would be certainty of detection, for if there was any suspicion, the person with whom you were dealing could, by letter, or application to the Land Registry Office, ascertain whether the official register was right or wrong. Under this system the forgeries which were recently committed by Dimsdale and Downs would have been impossible, for when Dimsdale went to the second man to borrow money with his forged deeds, he would have been asked for the Official Register, which would have shown the first mortgage.

947. Mr. WALSH.—If a system of registration such as we have had been in existence could they have done it?—They could not.

948. The VICE-CHANCELLOR.—These (Mr. Brodie's search sheets) only refer to the registry of deeds?—Only to the registry of deeds.

949. Now, as to the registration of deeds, have you considered what improvements might be made in the Irish system?—As the Commissioners are aware I wrote a paper in 1860 on the Irish registry of deeds, and the principal alterations which I then proposed were that more complete information should be given in each entry so as more fully to identify each particular deed, and secondly that the area or unit of registration should be very much reduced. In the books, as they then were, they did not give the whole of the names of the grantors, so that if you had to make a negative search you had to search the memorials to ascertain that the parties you were searching against were not amongst those included in the index books under the expression "and others." Then again in the lands index, the registry books were kept by barony divisions, and that being a very large division the number of entries against each barony was very large and searching, consequently much more difficult than it would be if the area of search were smaller. I was at the time quite satisfied that the registry of deeds might be so simplified by the introduction of printing as suggested by Mr. Dillon, and the adoption of a smaller area as the unit of registration that I laid this pamphlet (one published in 1860) before Mr. Cardwell, and bills were brought before Parliament in 1862 and 1863 with a view to carry out those suggestions, and, at the same time to place the whole system under the Landed Estates Court.

950. Do you think it would be desirable to prohibit the registration of any deed that does not contain the names of some lands in Ireland?—I think the lands which each deed affects should be described in those deeds by the Ordnance townland names.

951. You are aware, I presume, of the pains taken by the Ordnance Survey to ascertain the best designation for each townland, from amongst what might in many cases be a multitude of *alias* denominations?—The names of the townlands were collected from different sources by local inquiries, and then the whole were submitted to Mr. O'Donovan, the celebrated Irish scholar, who settled the name which should be adopted for each townland, and which became its legal name. Not only were very careful inquiries made respecting the names, but the boundaries of the townlands were settled at the same time, and became unalterable except under the authority of an act of Parliament.

952. Do you think there would be any practical difficulty in adopting the Ordnance Survey designations of the denominations of the townlands as the legal ones in all cases for the purposes of registration?—I cannot conceive any possible difficulty. Every owner knows where his property is situated, and can point it out on the Ordnance map, and, therefore, knows or can ascertain the name given on the map to the townland in which his property is situated, and for the public interest he should be obliged to ascertain in what townland his property is situated.

953. Are you aware that the Registry of deeds has been very much encumbered by the necessity of registering each deed against every separate denomination —every separate *alias* name?—I am quite aware of it. It was one of the points that I particularly remarked on in that pamphlet pointing out that the getting rid of it was an absolute necessity. In some cases the *alias* names were very numerous, as many as four or five *alias* names for the same townland.

954. Would there be any practical objection to the adoption of that plan when you came to deal with a portion of a townland; would there be merely this difficulty—that any portion of a townland when dealt with would be registered under the designation of that townland, and then, according to your proposed system, it would be the duty of the party to search what portion of the townland was affected by looking at the deed itself?—Certainly. The person searching would know that the land he was searching against was in a particular townland, and therefore he would search against that particular townland; and sufficient information being given to identify each deed, the searcher would know at once whether any particular deed affected himself. It might be worth consideration, however, whether the townland is not rather a small area, to take for the unit of registration its average being only 330 acres, while some of them are under 100 acres. Registry by so small an area would increase considerably the number of entries to be printed in the lands index; and it might be desirable to group a number of townlands together, and to register against groups of townlands. The Registry of Deeds Office would always know in what particular group a townland was situate.

955. On what principle would you group them?—In Ireland the townland boundaries are, in many cases, conterminous with the boundaries of the properties; therefore I should adhere to the townlands, and should merely group them, as it might be convenient to do so for the purpose of registration.

956. On what principle would you group them?—So as to produce an area which would not be too large to search against.

957. I know, but how—on what basis would you effect the grouping, would it be that of the townlands appearing on a particular sheet of the ordnance map?—Not necessarily.

958. You must adopt some system?—I should leave it to the Registrar to decide what would be the most convenient arrangement in each case for the purposes of registration. Each group should embrace an area not too large to search against, with well defined boundaries, and should have some regard to the ownership of the lands. It would be unimportant whether a townland was in one group or another; as in the office they would always know in what group a townland was.

959. But a great deal of business is done in the office by private searches and not by officials; how would the required information be imparted to them?—The person would say that he wanted to search the Lands Index against a particular townland, and the searcher would hand him down the book relating to the group in which that townland was. A search, of course, would be more easy against a townland; but in all these arrangements you must consider the *pros* and *cons* on both sides in order to see whether you can accomplish what the public require at a less cost. It is purely with reference to cost and convenience that I should think of grouping them.

960. According to the present system there must be an entry in the Lands Index of every deed against every particular townland comprised in it?—Certainly.

961. And not only against every townland, but against each townland by whatever number of alias denominations it is known?—Certainly; but if you adopted the names on the Ordnance map, you would of course have no aliases, but would register solely against the townland by the map name.

962. The number of townlands in Ireland is 63,000. Would that present any great difficulty in adopting the system of making the townland the basis of registration?—It would simply require that the number of entries should be larger. On a former occasion I found that, on an average, there were in each deed three names of grantors and five names of townlands. Therefore, you would have to print the entry in eight different places. Now, no system of registration such as that proposed could be carried out except by printing; the entries in manuscript would be too long, you would have to compare every entry, and would be perpetually liable to error, whereas if they were printed you would have no difficulty, and no liability to error of copying.

963. How would you propose to deal with the printing of these in the original folios of the Index?—I think that it would be better to stick to the printing in the books. I did think at that time of making books into which leaves could be inserted as required, but I am not clear now that that would be desirable. I ascertained from the head of a firm of printing press makers in London, that a printing press could be made without any difficulty which would print a small entry, such as an entry in the Index book, and by registering or gauging in any particular part of the page of a book required. I have always been and am still satisfied that the Indexes could be printed as proposed.

964. You refer now to the specimen given in your pamphlet of 1861?—Yes. Supposing I had to print one of these entries, I should require to print it eight times in eight different places. That being done, there would be a perfect register, which could be searched without the slightest difficulty. To show the Commissioners how very easily a search could be made if such a mode of printing should be adopted, I would ask their attention to a document which I found amongst my papers the other day. When I wrote my pamphlet in 1860, they took out for me in the Registry of Deeds Office the entries that had been made for the preceding ten years against the name of Atkinson; and this is the document, showing these entries from 1850 to 1859. It embraces twenty pages. Of course, if it were in print instead of manuscript it would occupy considerably less space, and would be more easily searched. They also made several searches against these entries, and from this document, and amongst others a search for all acts affecting the lands of Ballyquin and Terryclea, in the County of Monaghan, by Robert Atkinson and Ellen Atkinson during these ten years. The making of that search took sixty minutes, which was a great deal too long. Searchers properly directed could have made the search in five minutes. (At Colonel Leach's suggestion the same search was made upon this document by the Vice-Chancellor, and was made in six minutes.)

965. The VICE-CHANCELLOR.—This search does not give you the Acts?—It enables you, as in the case of any search, to ascertain what acts there are against you. A double search could have been made in ten or twelve minutes. If that document were in print you could make the search with still greater rapidity, because the County names would be thrown out with greater distinctness, so that searches against such an index as this would be of an excessively simple character.

966. How would you apply printing in the way you suggest to the names in the Land Index?—I would set up the type once for all, giving full information to identify each deed. Supposing that the deed related to two grantors and to five townlands, I should print that information under the heads of the names of each of the grantors and of each of the townlands, unless you grouped the townlands together, in which case I would print it against the group or groups of townlands affected.

967. How would you work it out—how soon after the deed coming in would you proceed to set it up?—Directly; the way in which it would be done would be this——

968. Each day as an act came in would it be set up

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in type and printed in its proper place in the Lands Index?—Yes, each day as the deeds came in the memorials would at once go into the hands of the typesetter, who would put them in type He could do it with great rapidity, for a great many names and headings could be set up in "logotype"—that is Christian names, and as many others as were constantly in requisition could be kept in blocks. Names of places could also be so kept

969 You should have blocks of every county and of Christian names and common surnames?—Yes The moment the type was set up it would be "proved," as the printers say, on paper, and when proved put into a glass case for reference in the office before the entries were printed in the indexes The printers would then print the entries into the books as rapidly as practicable.

970. Of course the printing establishment should be part of the Registry Office?—Certainly, one man should print, and another should see that the print was in the right place and was perfect

971. Then each entry should be printed in a kind of ledger, opening a separate account as it were for each unit?—Against each unit and against each name, so that if you wanted to search against any particular name you would get the book relating to Atkinson, and it would not take you five minutes to make a search against the name "Atkinson" extending over ten years If you had a search to make against a particular townland you would get the book relating to it, and that search would not take the time required to search against the name "Atkinson," because the number of entries would be very small against each townland

972. Would not your last observation go to obviate a good deal of the inconvenience that might arise in respect of the number of townlands as to which accounts should be opened?—If the townlands were grouped it would simply save the labour of printing against a greater number of smaller areas.

973. Do you consider that the townland unit would be more perfect?—The townland unit would be more perfect, but it would be proper to consider whether it would be desirable to group them to lessen the printing and the cost

974. An objection has been raised to that system on this ground, that as to some townlands there would be such a number of entries that the spaces in the book would be blocked up—that such a number of acts would appear in the spaces allotted to them that these would be insufficient after a short time—whereas for other townlands there would be more space than was required if you were to open for all townlands with a uniform space?—To meet this difficulty I originally contemplated making a book to which leaves could be added where required; and I am not sure that that would not be practicable still. But assuming it not to be practicable—and taking first the case of the Names Index—I should be able to ascertain from the Registry of Deeds Office what names are now registered. I should also be able to ascertain about the number of entries there would be against each Therefore, I should start with nearly all the names in dictionary order, and it is certain that there would be very few additional names But assuming that there were some additional names, I would have at the beginning of each book an index for what may be called extra names If a searcher did not find the name he was searching against in dictionary order in the body of the book, he would look to the extra names index which would show whether there was such a name and where it was to be found. And supposing, secondly, there was not space for all the entries against any name in the pages left for it, all I should have to do would be to put an entry at the bottom of the last page saying—"For the remainder go to page so and so."

975. Like carrying over an account in a ledger?—As in a money account.

976. And the same would apply to the Lands Index?—The same precisely.

977 So that if a townland should become crowded from a site being fashionable and becoming filled up by being built upon, there would be nothing to prevent you from continuing the account on another page?—Nothing whatever

978. And turning over from the folio you had exhausted, you would continue your search in the next folio for that townland, which would be a matter involving little or no delay?—Merely going from one page to another There is another observation which I would like to make here, I see that a registration by the names of streets in towns is contemplated, which would be necessary and might be done perhaps in small towns. But with respect to large towns like Dublin?—I proposed a plan with regard to towns which Mr. Follett, Registrar of the Land Registry Office in London, laid before the Registry of Deeds Commission of 1868 According to that plan a large town would be broken up into blocks surrounded by principal streets The principal streets would probably remain unaltered for long periods, and by them a town could be broken up into small districts just as the country could be broken up. The streets would be the boundaries of the registration districts, and it would be necessary to have in the office a map of all those districts, copies of which could be distributed to solicitors either *gratis* or for a nominal sum, so that every solicitor dealing with property in Dublin for example would know in what registration district it was situated Then a party coming to the office to make a search against property in a particular district could do it with the same facility as against property in a townland. That would make the registration in towns just as easy as the registration against townlands in the country

979. I suppose the Ordnance Survey would give you assistance in arranging the blocks for the purpose?—The Ordnance Survey would give very great assistance.

980 Mr. WALSH.—You would give the names of parishes besides?—The names of the parishes would be given in the entries.

981. Mr. MADDEN.—You might distribute the blocks for parishes?—In the event of the Registry of Deeds Office being connected with the Landed Estates Court powers with regard to details, should be given by statute to the Court, just in the same way as the Lord Chancellor issues rules and orders with regard to Land Registry in England, so the Court presiding over land registry in Ireland should have power to issue rules and orders as to what should be done in particular cases

982. The VICE-CHANCELLOR.—Then, I presume, with the aid of such a printing press as you suggest, the lands index could be printed up almost to the day on which each act was brought in for registration?—I should expect that the index and books ought to be completed within the second day.

983. Because instead of making entries in what would be called a day sheet or day book you could at once print each act into its regular place in the lands index?—I should print at once into the index, and have only one set of books. Great difficulty arises from having so many books and so many comparisons

984. Mr. WALSH.—All you would find would be that there was an act against a particular denomination?—Yes, with information to identify each Act.

985. The VICE-CHANCELLOR.—And you would ask the person with whom you were dealing to explain that act?—Yes, to produce the deed relating to it.

986. Mr MADDEN.—Would there be any difficulty in having a system such as you propose working side by side with the existing Registry of deeds, adopting it as an optional system, to which parties could have recourse if they preferred it?

Witness.—Would you propose that they should adopt my plan and also register in the Registry of Deeds Office.

987. Mr. MADDEN.—That proprietors of land should be allowed to elect which they would adopt

Witness —Do you mean that there should be nothing to prevent anyone from saying that he would rather register according to my plan and have nothing to do with the Registry of Deeds Office?

Mr. MADDEN —Yes?—That would be quite possible.

988. Your plan might be preferred by the proprietors of small estates, because searches and transfers would be cheaper?—Yes

989. Supposing we established a registry under Lord Cairns' Act, with the additions embodied in your system, is there any reason why we should not at the same time keep up in Ireland the existing Registry of Deeds?—No, you may improve it, and let the landed proprietors take their choice.

990. Mr. LANE (Secretary)—Why, in your late pamphlet, have you for the Official Registry adopted an estate instead of a parish or district registry?—Because I propose that the owner should get the Official Registry, and you could not give any party the Official Register of the entire parish or district, whereas you can of his own estate Parties, too, might take out separate registers of different portions of their estates if they pleased (*To the Vice-Chancellor*) —I would, in fact, recommend a proprietor of a large estate not to take out one registry for the whole of his estate, but take out several registries, each for a part, for that would facilitate his dealings with the estate very much; for instance, if he wanted to borrow £10,000, it would be more convenient that that sum should be charged against only an equivalent of land instead of being spread over the whole estate, and his dealings with it less expensive, for the borrower would only have to look as to acts affecting that division of the property, instead of having to inquire about those affecting the whole estate.

EXTRACT FROM PAMPHLET OF 1878, BY LIEUT.-COL. LEACH REFERRED TO IN HIS EVIDENCE, P. 63, No. 882.

8. THE PROPOSED MODE OF REGISTRATION IS AS FOLLOWS:—

1. That the Land Registry Office shall continue * to give, as at present, absolute, limited, or possessory titles; the unit of registry being each separate property.
2. That each title shall be issued in a form something analogous to a land certificate, and shall be retained in the possession of the owner of the property It might be termed an "Official Register."
3. That after a date or dates to be fixed, a short notice of every transaction affecting land, including Statutory Charges, shall be recorded on an "Official Register."
4. That these notices shall be recorded on the "Official Registers" *by the parties to the transactions*, and shall give certain prescribed particulars sufficient for the identification of the transactions recorded.
5. That any transaction not recorded on the Official Register of the property to which it relates, shall lose its priority over those which are recorded, that is to say, a recorded transaction shall take priority of any transaction, though of earlier date, not recorded.
6. That a copy of each record shall be sent, at the time it is made, to the Land Registry Office
7. That a duplicate of each "Official Register" shall be kept in the Land Registry Office, upon which shall be copied all records made by the parties on the original as they are received from them.
8. That an Index by Parishes, and in towns by mapped districts, shall be kept at the Land Registry Office, giving the numbers of all the Official Registers relating to each parish or district, and the names of the owners of the several properties to which the numbers refer.

* The pamphlet was printed in reference to England where, under Lord Cairns' Act, a Land Registry Office is in existence —R J.L

OFFICE OF LAND REGISTRY.

No. 11,651.

Impressed Inland Revenue Stamp.

OFFICIAL REGISTER No. 11,651.

Of the Registered Title and Subsequent Transactions relating to the Estate of Bowscar, in the Parish of Morton, in the County of Durham, containing 277 a. 3 r. 15 p. described on the Map attached hereto.

JOHN BROWN is the owner in fee simple, with a Possessory Title* dating from the 1st of June, 1878.

* Or absolute or limited title as the case may be.

SUBSEQUENT TRANSACTIONS.

Date of the Transaction.	Nature of the Transaction.	Names of the Parties.	Extent of Land	Consideration Money.
12th July, 1880	Mortgage	To George Smith	The whole	£3,000
1st March, 1883	Release from mortgage, dated 12th July, 1880	By George Smith	A. R. P. 30 0 0	
2nd June, 1883	Conveyance	To James Thompson	15 3 17	£794
11th July, 1884	Lease for 99 years	To Henry James	6 2 10	£20 per annum
13th February, 1886	Exchange under Inclosure Acts, 1845 to 1876	With William Johnston	7 3 1 for 8 2 6	
12th July, 1887	Reconveyance on payment of mortgage debt, created by deed dated 12th July, 1880	By George Smith	The whole	£3,000
12th May, 1888	Settlement on Marriage	Henry Dodson and George Back, Trustees	The whole	
19th September, 1920	Disentailing deed by Tenant in tail in possession	By James Brown, son of John Brown, deceased	The whole	
15th October, 1921	Conveyance subject to lease, dated 11th July, 1884	To John Jones	The whole	£5,000

Seal of Office.

With perforated date.

Office of Land Registry

OFFICIAL REGISTER No 11651

BOWSCAR ESTATE

PARISH OF MORTON

COUNTY OF DURHAM

The Estate is colored green

Schedule

No		A	R	P
1		4	2	12
2		7	2	15
3		20	0	10
4		22	2	10
5		13	2	3
6		5	3	0
7		25	1	10
8		20	3	10
9		13	0	30
10		10	3	0
11		14	3	15
12		17	2	10
13		14	3	0
14		11	1	10
15		15	0	0
16		23	0	10
17		13	1	0
18		23	3	30
	TOTAL	277	3	15

November 6, 1878.

Mr. William F. Littledale examined.

991 To the Chief Justice—I believe you have had a good deal of experience of the Registry of Deeds in Ireland—you are a solicitor of long standing?—I have been nearly twenty-eight years in practice.

992. With respect to the system of Registry of Deeds in Ireland and the laws in practice, would it occur to you to suggest any improvement on the state of affairs as they at present exist?—I have always been in favour of registering a deed, not by memorial, but either by deposit of the original, as required by the Abortive Act,* passed some years ago, or by the lodgment of a copy.

993 Of the deed itself?—Yes; a copy in extenso, and in that I am fortified very much by a matter that happened in my own experience in reference to the title deeds of a large estate of which I got over all the deeds. There had been a fire in the solicitor's office, and these pieces of charred parchment are the only representatives forthcoming of the deeds relating to a very large property. The deeds had been kept in a tin box in the solicitor's office, and were reduced to this state by the fire. Some of them were registered and some not, but the information given by the memorials in the Registry Office was of the scantiest nature.

994. Then with a view to convenience and to the supplying of proof of lost deeds, it would be convenient, you think, to register the deeds in extenso?—Yes, I think it has been found very convenient where deeds have been registered in extenso, such as in the case of old deeds in Chancery. It is not in any way detrimental to the client, and it is most convenient to the profession as representing the public.

995 Would you render it compulsory on everyone to register the original deed itself or a copy of the deed?—Yes; a full copy of the deed, certified by the solicitor, would be sufficient.

996. Of course you are aware there is nothing, as the law now exists, to prevent a solicitor from registering a full copy of the deed—I am, and all the conveyances from the Landed Estates Court are registered in extenso.

997. But do you think it would be proper to render it compulsory on the public at large, in all cases, to register a full copy of the deed?—It is merely a question of expense. The expense of registering at present is greatly disproportionate to the cost of the deed. The practice is to alter the draft of the deed and turn it into a memorial. Very often that is done by the scrivener, and the solicitor is paid at the same rate as for drawing the conveyance. The expense of lodging a compared copy of a deed in full would, in most cases, be less than the present expense of a memorial. The smallest memorial now costs fifteen shillings, drawing, and fifteen shillings, engrossing.

998. But would not a copy of the deed in full be very much greater than that?—No doubt, in exceptional cases, it would be very much greater, but taking the average, I think it would not.

999. And do you think that the bringing in of these deeds in full would not cause great inconvenience in the Registry Office itself—by reason of the largely-increased bulk of the documents—would there be room for them?—Very many of the documents at present in the Registry Office have really become obsolete, and could easily be cleared out.

1000 But if it became compulsory to register all deeds in extenso, would it not create an accumulation of documents extending to great bulk in a few years?—Not if it were done as the pleadings are now done—*copied* on paper, and not on parchment, and then bound up in books. All the pleadings are now *filed* in the courts in extenso, and there is no great accumulation—at least, I have never heard it said that it was inconvenient. Besides, you must also consider the great advantage that would be derived, and that an average deed is not very long.

1001 It has been stated by some of the witnesses here that private persons would object to a deed containing family arrangements and limitations and so forth being placed upon the Registry in full; do you think so?—No. The most private arrangements are now contained in wills, and I have very seldom known anyone go up and look at a will except they had business to do so.

1002 Dr. Ellington, Q.C.—But that is just a thing you would not be likely to hear of, for persons doing that would not speak about it?—But you would be likely to see persons searching there who were not professional practitioners, and in that way would know.

1003. The Chief Justice—However, you prefer that deeds should be registered in full?—That would be, of course, entirely for the convenience of persons in cases where deeds might be afterwards lost, and for supplying information as to them, but for all purposes of security you would think, probably, that the memorial is sufficient?—Yes, a properly-framed memorial is, but if you get the memorial of a deed registered with the words "to hold upon the trusts therein mentioned," you could not have a worse blot on the title; a blind memorial of that kind is about the very worst thing you could have.

1004. If a person has notice that the lands were conveyed to certain uses, though these uses are not disclosed on the face of the memorial, it puts him upon further inquiry; he is sufficiently protected by knowing that the land has been dealt with, and that was the object of the Registry Act, the provisions of which are, as you know, very simple. But the registration of a deed in full, as I take it, would be for the purpose of securing a collateral advantage, as it were, and to provide against accidents which may occur to the original deeds themselves?—The original object of the registration of deeds has long since passed away, which was, I believe, for the purpose of finding out what property was owned by Roman Catholics in Ireland.

1005. It was for the protection of purchasers, I take it?—Yes.

1006. Have you turned in your mind at all whether it would be feasible or proper to oblige all persons conveying lands to register them according to the Ordnance Survey denominations, townlands, and numbers on the maps?—I have been of the opinion for a great many years that it was very essential to have one recognised known name, and that the Ordnance name was perhaps the most certain one we could get. I don't know whether you have had before you a report which was presented by a sub-committee of the Council of the Incorporated Society of attorneys and solicitors, in 1862, upon the question of Colonel Leach's plan, I was a member of that sub-committee, and the report presented was dissented from by only one member of the committee, Mr. Cooper.

Mr. Lane, Q.C., (Secretary)—There are copies of that report on the table.

Mr Littledale—The report was signed by Mr. Arthur Barlow, Mr. John Orpin, Mr. William Gibson, Mr. William Read, Mr. Octavius O'Brien, Mr. John Fyffe, Mr. William Roche, and myself, and we were all of opinion, and I have never seen any reason to change it, that it was better to have one fixed name, and that the Ordnance name was the best we could get.

1007. The Vice-Chancellor—Do you remain of the same opinion that was expressed by you and the other members of that Committee, in that report of '62?—Upon this subject I do.

1008. And we may take that report as part of your evidence?—You may.

1009. The Chief Justice—It has been suggested here that it would be a hardship on many persons

* 13 & 14 Vict., c. 72 (1850).

EVIDENCE.
Nov 8, 1878.
Mr William F. Littledale.

to oblige them to ascertain the names of Townlands given on the Survey sheets; does that occur to you?—I don't see at all that it could be done at present. In the first place, it is extremely difficult to discover the Ordnance Survey name of a Townland You must ascertain the precise spelling adopted by the Ordnance Survey people, and very often these vary much indeed. I had a case in which I had a correspondence for the purpose of selling the estate of John M'Creery. The title to that estate was a Parliamentary title of 1853. The conveyance from the Commissioners then gave me, amongst others, the lands of Cloonecarthy, Annaghgoppel, Carrigeen, and Bensock. When I proceeded for a sale, a couple of years ago, I was obliged to get Griffiths' valuation and give the Townlands as mentioned on the Ordnance map. I applied on the 7th January to the office in Ely-place for that information, and it was not until the 23rd February that I was able to get it. The names on the Ordnance map entirely varied from the names given by the Commissioners in the conveyance of 1853. I would, therefore, consider that in all cases in which it is necessary to register a deed in a hurry (and there are many such) it would be almost impossible, in the present state of information, to give the names of the Ordnance Townlands with certainty. In this case I had to complain of the delay to the Registrar of the Landed Estates Court, and I got this letter (produced), which I have no objection to hand in, stating that he had communicated the matter to the proper office.

1010. It took in that case, you say, a month to get the proper Ordnance townland name of the lands?—Five or six weeks

1011. Mr. Green showed us that every tenant's holding in Ireland is valued, and the extent of his holding and tenancy are given, from which it would appear that if persons wish to know on what Townland on the Ordnance Survey map the tenant's lands were situate, it could be easily ascertained?—But that is not what you want to know; you want to know where the land of the tenant's *landlord* is, and that is what they cannot give you. They have tried to give it recently, in the return made to Parliament of the owners of property in Ireland, but that return is in many cases ludicrously wrong I mean the Blue Book issued in 1876. For instance, as regards a property I sold seven years ago, a property that belonged to my wife's family, we are still returned as original lessors. It is the immediate lessor you want to know about. You are not dealing with the tenants, and unless you know the names of the tenants you cannot identify the lands at the Valuation Office

1012. The O'CONOR DON.—But supposing you were the owner yourself, you would know who the tenants were?—Yes; and in the loans given by the Board of Works they are given to persons who know their own tenants and who can trace their holdings in the Valuation Office If I have a John Smith and a John Jones to deal with, as owner or lessor, they can tell me what the Ordnance names of their lands are; but if I went to register a judgment mortgage against either of them I cannot tell the Ordnance names of their lands or the names of their tenants. I know the *landlord*, and I want to register my judgment against him and not against the *tenants*.

1013. The CHIEF JUSTICE.—But the books contain entries of the names of the persons under whom the tenants hold?—They purport to do so, but the return of the names of the landlords in Ireland is full of mistakes People are put down as owners who are dead and gone years ago, and in some places the Court of Chancery is returned as the owner.

1014. Mr. WALSH, Q.C.—What you are now stating refers only to the registration of judgment mortgages, though?—No; to any proceedings not taken with the immediate privity of the owner of the land

1015. The CHIEF JUSTICE.—We are speaking of conveyances and sales, supposing there is a sale?—Suppose, rather, that I am taking the transfer of an old mortgage, and under the new system I am to go and register it against the Ordnance Townlands, how am I to find that out?

1016. The VICE-CHANCELLOR.—Are you aware they have in the Ordnance Survey Office, though not published, a complete registry of all the townlands, with all the *alias* denominations by which they were ever known?—I know there is such a registry in existence, and I believe that the documents it was compiled from are now lodged in the Royal Irish Academy.

1017. If they were published by the Ordnance Survey Department, would it not obviate the difficulty you speak of?—It would, to a great extent, and that is one of the things that the Abortive Act of 1850 ordered to be done, and it is, in my opinion, a condition precedent to your being able to register by the Ordnance Townland denominations

1018. Subject to that qualification, is your evidence in favour of registration by Ordnance Townland denomination?—Yes, certainly.

1019. The CHIEF JUSTICE.—Are you aware that at present considerable difficulty arises in making searches, or embarrassment by reason of the registry of what are called the General Acts—Acts not referring to any lands specifically, but to lands generally?—I don't think that creates any difficulty in solicitors' searches There is some delay occasioned by it in getting out your official searches, because it takes as much time to investigate these general Acts as if they were particular Acts.

1020. So that causes great delay?—There is no exceptional delay now. If they know at the office that you are in a hurry they will expedite the search for you. I have always found that.

1021. You don't think so much embarrassment is occasioned as would render it right or proper to prohibit the registry of deeds not dealing with lands specifically, but with lands generally?—We constantly get from England (I think I have one myself now) memorials reciting "All the estate of A B" in such and such a *parish* or such and such a *barony*. Here is a conveyance of all the lands of A B in a certain county in Ireland. It was prepared in England, and comes over here to be registered I don't see how you could prevent that, although in deeds prepared here, if we were accustomed to the Townland nomenclature, we might always use it.

1022. But you may not know exactly where the lands are?—I don't know the exact value of registering a deed of that nature, but I think a person should be allowed to register it for what it is worth.

1023. It is also the case that you may register instruments not referring to land at all?—Yes, I have myself registered a deed settling a policy of insurance, and it was brought up against me on a former inquiry that I had myself registered a deed that ought not to be placed on the registry.

1024. Should that be prohibited, do you think?—I think that no harm would be done by prohibiting it.

1025. Would it be returned upon a requisition for search by names?—Of late years we have no searches on names. We have land searches confined to the index of names, but we have not a search on names without reference to lands.

1026. But do these not appear on the return?—No; unless they might deal with lands.

1027. Mr MADDEN.—Would not a deed settling a policy of insurance, for instance, be put in the Index as a general charge?—I think not; nothing of that kind is returned unless it is a "general charge" affecting some lands belonging to the grantor.

1028. Do they not, in practice, index such deeds as general charges?—I think not; it would be extracted by a search clerk, and when he checked it, it would be struck out.

1029. Mr. WALSH, Q.C.—And would not that be a cause of great delay?—Yes, if they examined into the matter.

1030. Mr. MADDEN.—I am under the impression that it would be called a General Act, and put on the General Act book, and therefore returned on a

search—I am sure it would; my impression is that they put down everything that does not specify the lands, whether there is lands or not?—If they returned an Act of that sort upon a search of mine, I would not take the search with that on it

1031. Mr. WALSH, Q.C.—But it causes delay, because they must go and examine into the matter.—I have no complaint to make about the delays; whenever I have told them I wanted a search in a hurry it was always expedited. I may say, with reference to the Ordnance names, that in that case of M'Creelys, which I mentioned as to the delay in the office, I have the papers here before me, and it just illustrates what I have already said; for instance, the townland of Carrigeen on the Ordnance Survey Map comprises part of Killaghan and Gort, Annaghgoppel is an undivided portion of Ballina, and Clooneearthy is known on the map as Feacle; of course, when I came to sell, I was obliged to make the title by the Ordnance Map; and portion of the lands conveyed to me as portion of the lands of Annaghgoppel, in 1853, turned out, as I have said, on the Ordnance Townland, to be a portion of Ballina which it was impossible to identify, and we had to sell (as seven undivided acres of the lands of Ballina) a portion of another Townland altogether.

1032. The CHIEF JUSTICE.—It was conveyed as what?—As the lands of Annaghgoppel, and when I came to make title to it in the Landed Estates Court, I found that my client was owner of part of Ballina, and that Ballina, according to the Ordnance Map, included Annaghgoppel.

1033. Were they not conveyed to you by map?—They were not conveyed to me by map in 1853.

1034. The O'CONOR DON.—How does any difficulty arise in this case where you were the owner?—We were owners under the Encumbered Estates Court Conveyance, and we knew our own tenants, but not the lands the tenants held, and we were looking on the map for Annaghgoppel, for which the tenant had been always paying his rent, and we found there was no such townland or denomination upon the Ordnance Survey, but we found them under this other name.

1035. But surely the Poor Law receipt would tell you the Ordnance Survey name—don't they give that?—Generally they do.

1036. Surely always; for how could they be able to collect otherwise?—At all events I had not the receipts at the time.

1037. But if you were the owner you would have them or they would be accessible?—The person selling was an encumbrancer, not the owner, and the owner did not know anything about the townlands.

1038. The CHIEF JUSTICE.—You think, then, that without some other steps were previously taken, it would be difficult to enforce registration by Ordnance Townland names?—Until that list which the Vice-Chancellor spoke of as containing the various names of the townlands is published, and is made as accessible as the Townland Index has been it would be impossible, and, even with that, difficulties might arise; for instance, if you look at Cartron you will find that there are nineteen or twenty Cartrons, but they could be, and in fact they are, in some instances, given for the purpose of identification with the names of the owner attached, such as Cartron (Smith), Cartron (Jones), and so on; that is where these occur consecutively on the register, and, in such a case, the Ordnance Townland denominations would be of very little use.

1039. Are there Adjacent Townlands of the same name?—Yes, I know cases of that kind in Wicklow.

1040. The VICE CHANCELLOR.—But in the Ordnance Survey how are they described?—The name of the owner is put under the name of the townland on the map.

1041. Thus, Cartron (Smith), Cartron (Jones), and so forth?—Yes, that is where there are adjacent townlands of the same name; generally they have been townlands sub divided.

1042. The CHIEF JUSTICE.—Have you any other suggestion or improvement to offer on the existing system of registration?—I think that in the present system we give to the office when registering a great deal too much. All that is required in the office are dates, parties' names, parcels, and the habendum. You may put in any statement of a fact or covenant after that, true or untrue, and it is not compared or checked. I have often been surprised that something wrong has not been inserted and placed on the registry of memorials. Very often covenants are stated and they are not compared with the original deeds. They are altogether surplusage in the memorial. All that is necessary for the protection of a person dealing with the land are the items required by the statute, the rest is a waste of time and money.

1043. The VICE-CHANCELLOR.—You get no authorized knowledge from the Registry of Deeds Department of anything except the statutable requirements?—Nothing more.

1044. In the office they compare and look to nothing else?—No, except the formal execution of the deed. We have been all rather alarmed by the dictum or statement in one of the Courts that you could not fill in the names of the witnesses after the execution by any party of the memorial. It often happens that we get memorials from England and are obliged to fill in here the names of the witnesses to the execution of it.

1045. The VICE-CHANCELLOR.—Has there been any decision to that effect?—The Master of the Rolls censured a solicitor very strongly in his court for doing so, and was surprised when told that it was the practice to do so.

1046. Is it not a very common practice?—It is the universal practice and I think as it has been questioned at all it should be legalized by legislation.

1047. The CHIEF JUSTICE.—Is it necessary, in your opinion, that the affidavit of perfection of a deed should be made by the attesting witness?—I place very little reliance on these affidavits. I have very little faith in them. The constant use of them makes them of very little value, and a practice has been growing up of late of sending up boys of sixteen or seventeen years of age (who are here to day and in the Transvaal in a few months, perhaps,) to make these affidavits of perfection. They are made constantly by persons whom you will never be able to trace, and the reason is that the loss of time in registering a deed is so great that solicitors will not go to do it themselves. The new system of swearing before Commissioners in Dublin instead of in the office is a great relief in this respect.

1048. The VICE-CHANCELLOR.—What is the cause of the delay in the office?—The inspection of the stamp is one great cause, and about it the Registrar knows nothing. He is not brought up to study that. I speak with all respect of Mr. Ray. He has been an admirable officer in his time, but he is now past his day, and you cannot expect him to do business in the same time as a younger man.

1049. Is not there also delay in having affidavits sworn before the Assistant Registrar himself?—Yes, but that has been obviated greatly by swearing before Commissioners in Dublin, as I have said. If you don't do that you go up to a little room, and round the boxed-up space there is a cordon of solicitors' clerks and young fellows, and you must remain there for your turn or perhaps wait till the next day.

1050. Don't you think it would be a great relief to abolish what is now required—the statement on affidavit that the deed was handed in at a certain hour?—Yes. The affidavit is useless unless you can find the witness who has made it.

1051. The LORD CHIEF JUSTICE.—It has been suggested that any person swearing to the handwriting of the parties to the deed would be sufficient guarantee—do you agree to that?—If the deed is registered in extenso it would be only necessary to have the solicitor's certificate that it is a true copy.

1052. But as to the execution?—If it is registered

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by a solicitor you can always trace him, but if it is registered by John Smith, an attorney's clerk, where are you to find or look for him?

1053. Mr. MADDEN.—Are you aware that the English Real Property Commissioners recommended that deeds should be admitted to the registry without any verification at all *within a year* from their execution, provided they are attested by two witnesses whose descriptions and residences are given. Would you approve of that?—No. I think you should have witnesses whom you could trace. The Chief Justice was opposed to me in a case in which he succeeded on the validity of a registration as against my invalid registration, when, if we had been able to trace the witnesses, I could have had a valid registration of my own deed, but the witness was an attorney's clerk whom I could not find. I require it to be attested or certified by a solicitor, for you have greater hold over him. I would admit it to registration without any affidavit.

1054. Another advantage you suggested is, that it would save expense?—I think the expense of registration is altogether very disproportionate.

1055. The CHIEF JUSTICE.—And you think the certificate of a solicitor would be more satisfactory than the affidavit now registered?—Certainly.

1056. It has been suggested that the stamp should not be inquired into in the Registry Office, but that all deeds should be taken to the Stamp Office, and the stamp imposed or examined there to show that it was properly done?—I think that would be legislating for exceptional cases. I think every solicitor does his best to see that his deed is properly stamped. The law has already provided that if it is not he can remedy that at any future time by paying the penalty. But I think it would be highly inconvenient to oblige a solicitor first to go to the Stamp Office and have an investigation of his deeds there, and then go to the Registry Office and have another investigation for another purpose there.

1057. The VICE-CHANCELLOR.—What you suggest is that the deed when brought up to the Registry Office should be received there without any further examination?—Yes; but the certificate of the sufficiency of the stamp could be entered in the solicitor's certificate of execution.

1058. The CHIEF JUSTICE.—Have you any other suggestion to make on the first branch of the inquiry as to registration?—I don't think I have any other suggestion to offer.

1059. The VICE-CHANCELLOR.—An objection has been raised by some persons that the registering of deeds in extenso would be objected to by clients because of its disclosing their family and private affairs to the public. You have heard that?—Yes; and I also heard Judge Longfield's answer. He said that the registry was only meant for honest deeds, and I think that answers the objection.

1060. To meet that objection, however, would it not do to have the trusts declared in a contemporaneous deed, and have that deed referred to by the registered deed?—I should say not. That would be the same difficulty as they had in the memorial "Upon the trusts therein mentioned," it would be, in fact, just the same as at present.

1061. I apprehend that it would be necessary if it was resolved upon that the full deed should be registered, or a copy of it, that there should be an abstract prepared containing the present statutable requirements?—Quite so.

1062. Which alone would be essential for the registration of the deed, so that no delay would take place by comparing the copy with the original, which might be done at a separate time?—I had a Yorkshire solicitor with me registering a deed a short time ago, and he told me there were sixty deeds registered per diem in the West Riding of Yorkshire, and he was quite astonished when he found that he would have to leave the deed there for a couple of days before the registration would be complete. He said that in Yorkshire it would be done in a couple of hours at most.

1063. Would you approve of a tabular form of memorial being prepared, containing the statutable requirements?—Yes.

1064. Which would be handed in and constitute registration of the deed?—Yes, certified by the solicitor.

1065. And only these portions of the memorial compared with the original deed in the Registry Office?—Yes.

1066. The CHIEF JUSTICE.—That would be very much the same as the present memorial?—It would be much shorter.

1067. The VICE-CHANCELLOR.—Do you approve of the system of having exceptions in searches by which certain deeds are excepted on a requisition for a search?—I think, so long as there is stamp duty charged for every act returned, the solicitor should have the liberty to make such exceptions; but it is only a question of expense, and now that the duty has been reduced from 3*s.* per act to 1*s.* it would not make very much difference if the system of exceptions were abolished.

1068. Are you aware that there have been great complaints of delays in searches owing to these exceptions—that these exceptions have to be searched against as much as any act returned?—Certainly; they have to be searched against and checked off, but I don't see that it would make much difference in the delay, because they would, if not excepted in the requisition, have to be returned as acts.

1069. Dr. ELRINGTON, Q.C.—But each act returned is paid for?—I think the charge still is excessive, and if solicitors wish to reduce that by excepting acts which they don't require a return of, it should be open to them to do so. But the whole system of books has been so reformed now that a search is not so troublesome as it used to be.

1070. The VICE-CHANCELLOR.—I think you have stated that there is no real cause for complaint as to delay in the office?—I have always found, when I have told the officials that it was pressing, the matter would be expedited. It would be put into hands at once without any compliment; but frequently solicitors put on pressure when it is not required, and when the searches are ready leave them in the press there.

1071. Do you think there is any advantage in recording negative searches, *i.e.*, in keeping copies of them in the books there?—I have never used them but once, and I think they involve too much labour for the profit gained. They might preserve the rough abstracts from which the search is copied out, that could be done at a small expenditure of time and money.

1072. The CHIEF JUSTICE.—You have never known an instance in which a deed was omitted from a return on a search by the Registry Office?—No—never.

1073. JUDGE ORMSBY.—Do I understand you to say you would be satisfied with leaving it optional to the public to bring in a copy of the deed to be registered?—No; I would have a full copy brought in, together with the tabular abstract. The abstract could be bound up in a book, which could be referred to, somewhat analogous to the present "Abstract book." At present you have the memorial in full and the abstract book as well.

1074. But do you think it should be made compulsory upon a party to bring in a full copy of his deed?—Yes, to bring in a full copy and a skeleton index, so to speak, certified by the solicitor.

1075. You would suggest that, in every instance, a full copy of the deed should be there?—Yes.

1076. Dr. ELRINGTON, Q.C.—Do you think that the fact of the solicitor's name being there as certifying to the accuracy of the abstract would assist you hereafter in looking after the deeds and proving them, supposing that the full copy was not there?—The Day Book now does that; it has the name of the solicitor registering the deed, and very likely you will find there a number

of deeds left to be registered, and never taken out, left there by the solicitors.

1077. Mr WALSH, Q C.—There might be some difficulty in getting a solicitor's certificate—say, for instance, in the case of a deed prepared in England?—Of course to every rule there must be exceptions But a deed of any importance a solicitor generally sees executed himself However, I would give the proper officer power to dispense with the rule in proper cases.

1078. The CHIEF JUSTICE.—Would you make it essential that every deed should be certificated?—Yes; as to the execution of it by the grantor, I would substitute the certificate of a solicitor for the affidavit now required by statute But, as I have said, the officer might, in particular cases, have a dispensing power, where there is proper cause shown for it

1079. The effect of that would be to leave great power in the hands of the officer?—It is done in the Record of Titles Office now.

1080. Mr. WALSH, Q C—And that is one of the reasons that the profession won't take advantage of it?—I don't know that.

1081. The O'CONOR DON —I would just like to ask one question with regard to the Ordnance Townland denominations—I understand you to recommend that they should be adopted?—Yes; but that at present you haven't the machinery for adopting them

1082. What machinery would you suggest?—The list that the Vice-Chancellor referred to of Townlands, with all their known sub-denominations, should be published—the list prepared by the Ordnance Survey people, and kept in their office They have an index of all Townlands with all their *alias* denominations

1083. That list is in existence now, therefore what is the difficulty in the way of now adopting the Ordnance denominations?—Because it is not accessible—it should be as accessible as the Townlands Index which is to be had for 7*s* 6*d* at Thom's office

1084. But you think that if that list were printed and published the thing would be feasible?—It would be perfectly feasible, I think.

1085. And would it be a very great advantage if it were feasible?—A very great advantage

1086 Dr. ELRINGTON—Do the *alias* denominations include, in no case, more area than the Townlands with the Ordnance names—is there no dispute about boundaries?—It is wonderfully accurate—that is all that can be said for it

1087. But there are disputed cases?—There are a great number of give-and-take cases, owing to the rectification of boundaries, and so forth The Landed Estates Court practice is to convey the land as in the title, but to give possession as it is held by the owner.

Mr. LANE, Q C., *Secretary*.—I know professionally of a case in which there was a difference of about sixty acres in the contents of a townland

1088. The O'CONOR DON—How would that list of *alias* denominations show these differences?—Because, taking the case I have already referred to as an instance, what was conveyed as Carrigeen in 1853 includes a portion of Killiaghan, and looking at the Ordnance Survey now, they would see the difference between the Ordnance denomination and the old denomination—that that bit of Carrigeen has gone with this other townland (Killiaghan).

1089. Dr. ELRINGTON, Q C—It is now a bit of Killiaghan?—Yes, of the Ordnance Townland of that name. When the Ordnance Survey was made it was extremely difficult to get accurate information as to boundary, and it is, beyond doubt, wonderfully accurate as to description.

1090. Judge ORMSBY.—Have you any idea as to how they ascertained the *aliases*?—They took the greatest pains in ascertaining them from the country people—respectable people in each locality—by letter and orally, and the results of all those inquiries are now preserved in the Royal Irish Academy, forming a very valuable collection of Irish names and places

1091 Do you think they are so accurate as to be perfectly reliable?—I think they are as reliable as can be You would have an opportunity of checking them yourself with your own knowledge, but I think they are sufficiently accurate to enable an incumbrancer to register his deeds against particular lands.

1092 Mr WALSH, Q C.—Are not these Townland names and their boundaries becoming better known throughout the country every day?—Yes, the new names are becoming better known every day, and the old ones are dying out I think it is a very great pity that they did not keep a separate set of books for the Parliamentary titles in the Registry Office, for we would have something to start from now, with respect to townlands

1093. The CHIEF JUSTICE.—I presume that you are familiar with the law with regard to judgment mortgages?—Yes

1094. It has been suggested that it would be an expedient thing to abolish that system altogether and to render the law in Ireland similar to that in England You are aware that judgments in England are not a lien on lands, but that the creditor must, within a limited time, realize the amount of his judgment?—It has never been possible in England to give the same facilities for dealing with land as here, because there is not any public Registry except in two or three Counties, and they have no means of finding out what lands are possessed by a debtor, without seeing the Title Deeds of the lands

1095. Yes, but the idea is that titles in this country are greatly embarrassed by this system of the registration of judgments as mortgages, and do you see any reason why the same law adopted in England should not be adopted here, requiring that a judgment should be enforced within a reasonable time?—If you gave the Sheriff power to sell a freehold or an equity of redemption as he has the power to sell chattels, I think it would be well But supposing a man of several thousands a year, not embarrassed to the full extent of his property, and having an execution against him for £100, it would be very hard that the Sheriff should sell his entire interest for the purpose of paying off that £100. I have been thinking over the matter since I got the Commissioners' queries, and though I have not yet quite thought it out, I am of opinion that some power might be given to the sheriff to execute a mortgage of the property

1096. Mr. WALSH, Q C —How about priority, then?—I would have that mortgage registered as of the date of its execution, just like an ordinary deed

1097. Mr. MADDEN —If the debt is to remain outstanding could not the debtor give a mortgage?—He does not want to—when things have gone so far he does not care.

1098 The CHIEF JUSTICE.—Do you regard these judgment mortgages as good securities?—I have never thought them securities at all, and I have always objected to lend money on them They are not regarded as safe securities, and I would say abolish them if you can provide anything in their place.

1099 I don't think, as the law stands, that there would be any difficulty in proceeding in the Equity Courts, provided some short and summary mode were devised of selling the lands?—The most summary mode now is that provided in the Landed Estates Court, which takes from one and a half to two years

1100. The VICE CHANCELLOR.—Is that the shortest or most summary mode of selling lands?—I think it is.

1101. Are you aware that frequent applications have been made to the other divisions of the Court of Chancery to allow property to be sold in their division, as it would save the immense delay that would occur in the Landed Estate Court?—Well, under a petition presented in November, you could have a sale within a year.

1102. The CHIEF JUSTICE —But the end of the proceeding there is to get a Parliamentary title?—And the best price.

1103. But a creditor only wants to realize sufficient

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to pay his debt?—Yes, that is true, but you know what you are going to do with the money in a sale in the Landed Estates Court, but if you have a £100 execution, and that you sell out over £2,000, what are you to do with the money?

1104. The VICE CHANCELLOR.—The law in England with respect to judgments as against real estate is—that no judgment affects land of any tenure until the land is actually delivered in execution by virtue of elegit or other lawful authority—that you recover your judgment, and then sue out an elegit, upon which you can sell the debtor's lands—would you approve of that remedy?—That is just the practice of thirty years ago, which had only gone out when I commenced learning my profession. Your remedy, then, was by elegit and custodiam, and those were found so expensive and unsatisfactory that the system was abolished. It seems a very roundabout process. Why not proceed and sell out at once?

1105. Mr. FINDLATER.—Do you think it would be an improvement on the present system of judgment mortgages to adopt such a course as you have suggested—giving those powers to the Sheriff?—The present system is an exceedingly bad one, and if you can get rid of it and substitute anything else for it, it would be better. Not having thought the matter out, however, I would not go further than to say that the present system is a very bad one.

1106. No one would think of lending money on judgment mortgages as securities, but going against a debtor you have no other mode of proceeding?—But the question is might you not have better means, and would not an execution be better means. Of course it is in the interest of the creditor that I speak.

1107. The CHIEF JUSTICE.—With respect to all this registering of judgments, orders, crown bonds, and so forth, would it be gaining advantage, do you think, to consolidate that into one office, the Registry of Deeds Office?—I think that every Office having anything to do with charges upon land should be under one head, whether it be the Ordnance Office or the Government Valuation Office, it would be much better to consolidate them under one central authority. In fact, the Registry of Judgment's Office now is unproved to that extent that there is nothing to do in it. Mr. Perrin has brought it to such a state of perfection that what took you a day or two to find out before, you can now do in five minutes, if ever any place was prepared for being abolished that office is.

1108. Mr. WALSH, Q.C.—But suppose we come to the conclusion not to allow those charges upon the lands until proceedings were taken, what are you to do. Can they transfer the present judgments registered in the Judgment Office to the Registry Office?—Well, practically now, there is only one book in the Registry of Judgment's Office, the five years index, the others are thick with dust, never used. But what I don't know is what you would do with the old unregistered judgments, I am paying interest on old judgments now in existence for a period of years, and which, though not registered, are kept perfectly alive by the interest being paid every year. How are you to find them out—how deal with them.

1109. But they would not affect a purchaser at all, not being registered within the five years?—But the existence of such judgments is notorious, and that you should do injustice to the holders in order to protect possible purchasers would be a great evil.

1110. The CHIEF JUSTICE.—It has been suggested to establish local registries in the Counties, either in place of, or in addition to the Central Registry Office—land registries in each County, do you approve of that?—I have heard of two suggestions, one to register with the Clerk of the Peace, and the other with the Poor Law Union Clerk, and I think they are both bad. It might have been very desirable sixty years ago, when it was impossible to get from Donegal to Dublin under two or three days, but now, with railway communication and the telegraph, I don't see the necessity for local Offices. Every additional Office or Registry established is just multiplying the probability of mistakes and increasing the trouble.

1111. And would it not require a very large staff to work such a scheme?—Yes; a large staff of skilled officers, and it would be practically useless, because no man would rely upon it. It would be useful only for persons who had small properties in one particular district, for it would be as easy for a man living in Newry, and having a charge upon a Townland in Munster, to have it registered in Dublin as in the local registry in Munster.

1112. Have you considered at all this question about the recording of titles?—Yes; I am one of the black sheep who have recorded titles.

1113. And you have recorded some?—Yes; I have recorded titles frequently.

1114. Mr. MADDEN.—Voluntarily?—Yes; I have recorded my own and my clients' titles, and I may tell you that Lord Justice Christian has recorded his titles.

1115. The CHIEF JUSTICE.—And are you satisfied with the result, or has the Act proved a failure?—Well, I think the Record of Titles Act never had fair play from the first, and it has not fair play now; it was started under the auspices of an eminent judge (Judge Hargreave), and, unfortunately, he died immediately after its establishment, and ever since it has been nobody's child, and nobody has looked after it with any interest. The great difficulty that I have always had in the Recording of Title is the necessity of going two or three times to do the one piece of business, from the difficulty of finding the Officer there and able to enter upon the business with me. Men in the ordinary run of business find it impossible to do that; you find it difficult enough to get through your day's work, even supposing you find people where and when you want them, but, to do business in that Office, you must call three or four times, and when you do get hold of the Recording Officer you may discover that he cannot go into it with you. The Record of Title Office now is, I may say, in commission. The duties are discharged by Mr. M'Donnell, very much against his wish, I believe, and, in truth, his time is otherwise fully occupied as Examiner to Judge Ormsby. The result is that you must wait till he can see you, which is not convenient; then his time is sometimes impossible to you, and so your business hangs over. It was first put under Mr. Urlin, who is gone away.

1116. But of course recording of Titles in Ireland is limited to the recording of Titles derived from the Landed Estates Court?—Yes, or where the root of the Title has been derived from the Landed Estates Court. Under the 51st section of the Record of Titles Act the assign of an assign can register. I have a case, of my own where the title became peculiarly complicated. The lands of Rockstown, in the county Wicklow, were purchased by three gentlemen in the Landed Estates Court, who obtained a conveyance in that Court. Before they got the conveyance they got a lease of the minerals—in fact, they took the conveyance to get rid of any question of surface rights. Having got their conveyance they started a company for the working of the mines. The company never was fully formed and fell into bankruptcy, going into the Bankruptcy Court. The estate becoming vested in the assignees was sold in the Bankruptcy Court, and I purchased. I then presented a petition to the Landed Estates Court, under the 51st section of the Record of Titles Act, and I got myself recorded as Owner, and here I have a clear certificate as owner of the lands, which enhanced the value of the property for which I gave £800 by certainly £500.

1117. The VICE-CHANCELLOR.—In what way?—At present it would bring £1,300, and all that could be got for it by auction in the Bankruptcy Court was £330. It was tied to a mining lease which I paid £500 to get rid of. I then got from the Landed Estates Court a recorded title to £75 a year in fee, and a recorded title—a perfectly clean title to the fee for that amount, for £830.

1118. The CHIEF JUSTICE.—You got rid of the mining lease?—Yes; but anyone else could have done so, too. I got rid of the Bankruptcy Court proceedings, and now I show nothing of the persons from whom I purchased. I have got rid of all that by the Land Certificate under section 51 of the Record of Titles Act.

1119. But you are aware, I suppose, that this system of recording Title has not been at all had recourse to generally?—Yes, the recording of title, if it were to work at all, should have been made compulsory originally. It was left optional, and so strong was the feeling against it in the outset that Mr. Carey, the Registrar of the Court, had the requisition printed for purchasors that their titles should not be recorded.

1120. In point of fact the feeling of opposition is so strong that the Record of Titles Act remains almost a dead letter?—Yes; the solicitors have always offered objection to it, but amongst the persons who have recorded their own titles a large number are solicitors.

1121. The VICE-CHANCELLOR.—Were they voluntarily recorded?—Yes, they have voluntarily recorded their own titles.

1122. Will that appear from the books?—The question of voluntary or involuntary does not appear, but that is easily ascertained.

1123. The CHIEF JUSTICE.—Have you considered at all this question? In England at present, you are aware, that different Acts have been passed for registering or recording Titles—not deeds—and that they have not had a very extended operation?—They have also been opposed by the Profession there.

1124. Do you think that it would be a desirable thing for this country that the system of registry of titles should be adopted in place of the system of registration of deeds that now exists?—That is a very large question. I think it would be very desirable that a man should be able to register his title as it stands now, for we know that a Parliamentary title gets worse and worse every day, and that a bad title gets better, and I think that persons should be allowed to register their titles now whatever they are.

1125. Whether it was an absolute title or possessory?—Yes.

1126. However, you have given practical proof of your approval of the system of recording title—Record of title, in my opinion, is a good system, but it requires to be managed with first-class machinery.

1127. And do you think that the existing machinery is not sufficient for the purpose?—There is no doubt about that. It is admitted that Mr. M'Donnell can not give his time to it. He is already fully employed as Judge Ormsby's Registrar, and cannot give his time to this other business.

1128. Judge ORMSBY.—Do you think that there was sufficient work for Mr. Urlin, whose office was abolished?—I think if he had always been in his office it probably would have been more crowded.

1129. The CHIEF JUSTICE.—Do you attribute at all the failure of the Registry of Titles Act to the want of a proper staff and proper machinery in the office?—I think the regulations were badly framed at first. There were several hitches in them. For instance, if you had to record a deed, the original deeds were all to be taken or copies substituted for them, and the rules required the substituted copy to be printed. Printing is all very well if you want more than four or five copies, but if you want but one it is an unnecessary expense. Another thing was the fees. The old estates were allowed to be recorded under the 51st section. There is a fee of ten shillings per cent. upon the recording. Under the 51st section there was no fee. It was that ten shillings per cent. that deterred the Duke of Leinster from recording his title. He was told that the fee would amount to something like £10,000 and got frightened. At present if you want to record under the 51st section, after a year you have to pay an *advalorem* fee of ten shillings per cent., and if it was a good thing and facilitated dealings in land it was a mistake to load it with such a fee. You have already paid the stamp duty of ten shillings per cent. on your conveyance, and it is rather a serious thing to ask another fee of ten shillings per cent. on recording.

1130. It was stated here that the expense of dealing with recorded land was greater than it would be to make a new deed and have it registered?—I cannot see how that is. The Statute gives you a simple form of transfer of six lines. You can in a half a dozen lines transfer lands from A to B. I confess I cannot see how a transfer of non-recorded property could be effected so readily or at a smaller expense. Here (parchment produced) is my certificate of the lands I spoke of, and it is, as you will see, a certificate of title and also a negative search. It shows all the dealings with the lands since I got my clean title, and I can have it written up to the day so as to show every act upon it if there be any additional act.

1131. You are obliged to deposit in the Registry of Titles Office every deed dealing with the lands?—At present you are, but it can be done by having a counterpart of the deed, and a five shilling stamp covers it.

1132. Do you think you could suggest any amendments so as to make this Act workable?—There is another thing I can do, which is most convenient. If I sell this property out of Court, and grant a transfer to the purchaser, he can come in to the Record of Titles Office, lodge the deed of transfer, and get a brand new land Certificate; but if I as an incumbrancer come in by petition to sell a recorded estate, the rules oblige me to settle the rental and go through great delay and expense before they sell, and yet the result is no better than I could give out of Court in five minutes by my Statutory conveyance, and the subsequent obtaining of a land certificate from the Officer. There is no doubt, however, that the Act has been a failure, but I think it ought not to have been a failure, and that if Judge Hargreave had lived for a few years it would have been started in a different way, and it would probably have been more permanent and more successful.

1133. Would it be too much trouble to ask you to furnish us with a memorandum stating the difficulties and defects which you have observed in the system, and any amendments that would occur to you?—Certainly; I shall send it in with pleasure. (See App. p. 147.)

1134. The VICE-CHANCELLOR.—Would you propose to confine the operation of recording Titles to lands which would pass through the Landed Estates Court?—That is as to the question of registry of title?

1135. Yes.—No. I think the Registry of a non-Parliamentary title would not have the same weight immediately, but in process of time it might have.

1136. If it is a compulsory registry as an absolute or possessory title, would that not lead to holding back of certain titles from registration?—There would be much more reluctance to register a bad title here than in England, for we have got the advantage of a Registry of deeds.

1137. Mr. MADDEN.—Do you not carry your advocacy of the Registry of titles so far as to substitute compulsory Registration of title for the present system of Registry of Deeds?—As I have already said I think it was a mistake in the outset that the Record of titles was not made compulsory. It should have been made compulsory for all Parliamentary titles.

1138. But would you go so far as to advocate the establishment in Ireland of a system of compulsory Registration of title in place of the present system of registry of deeds?—No; but if a man wished to register his title, there should be machinery to enable him to do so.

1139. You say that in Ireland there would be more reluctance than in England to register a possessory titles?—More reluctance to register a bad title, for here we have a means of finding out what the blots are on the title; in England they have not.

1140. There is in existence in England an Act enabling you to register either an absolute or a possessory

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title, and are you aware that it is not working at all?—There is no body of men who are more opposed to new systems or to trying new systems than Solicitors, they are worse, even, than farmers

1141. But that is not very remarkable here, because they might think the present system a very good one?—I think that what is for the benefit of the public is for the benefit of the Solicitors

1142 Then, in short, are you in favour of adopting in Ireland a system like Lord Cairns'?—I would be in favour of allowing any man who chooses to do so to register his Title, and if he can get it investigated at a moderate expense, and get a Parliamentary title, it would be desirable, I think, if anything of the kind were fairly worked, it would be used to a very large extent. I may say that the establishment in this Country of Building Societies, and Societies of that kind, has gone a great way to revolutionize new ideas as to dealings in land. I know a professional man, a stickler for strict regularity some years ago, who finds himself now necessarily obliged to give and take, and take things that he would not have taken twenty years ago from anyone Anything that would facilitate the transfer of small holdings or pieces of land would not be objected to by the Solicitors, I am sure

1143 Would you be in favour of continuing the Record of Titles, and of adopting in addition a system something like that contained in Lord Cairns' Act?—I think it is a great mistake to have a separate Office and a separate jurisdiction, I think it would be desirable to have them consolidated in one Department, and under one Officer, with an appeal to a Court, and an easier appeal than at present, for, with a Judge in full swing of business, it is difficult to get cases of emergency disposed of, and besides, people don't like to go into open Court and state their private affairs. I think there ought to be a speedier way of seeing the Judge, not in what is called chamber, but in private chamber, on appeals from orders made by such an officer. If there were a strong head to the Office, I am certain such appeals would be of comparatively rare occurrence

1144 The CHIEF JUSTICE.—Then you would constitute a new officer?—No, the Record of Titles is, I may say, in commission now. There is a tentative way of doing it now by Mr. M'Donnell. He is anxious to be relieved of it, and only undertook it, in fact, on the understanding that it would be a temporary arrangement.

1145. Would you continue that office?—I think it would be a great mistake if a purchaser in the Landed Estates Court were not able to get such a deed as I can get from the Record of Titles now—a deed giving a clean title, and one that a purchaser can keep clean

1146. The VICE-CHANCELLOR.—The Title he gets from the Landed Estates Court is not, as a Title, improved by Recording it, surely?—No, not as a title, but say that there have been dealings with the title—that there have been Mortgages, and that these have been recorded on the Record of Title—the Owner can come in at any time, on showing that these have been cleared off, and get a clean title again discharged of all incumbrances

1147. But has he not to give the very same evidence to the Officer Recording the Title that he paid off all the encumbrances as he would have to give to a future purchaser?—Yes; but he has not to preserve the deeds, which is a great advantage, but brings in a release.

1148. Mr. MADDEN.—Because the Certificate he gets is as absolutely conclusive as a Landed Estates Court conveyance?—Yes.

1149. It preserves the Title in all its subsequent devolutions?—Yes.

1150. And in preserving the Parliamentary title is very much left to the recording Officer Take this case: two men are interested in land, they are entered on the Record of Title as *joint tenants*, when in truth they are *tenants in common*; one dies; his death is proved, and the other is put on the record as the sole owner by the Officer?—That happened by the carelessness of a gentleman in charge, and as I said before that if you had a strong head over the Office there would be very seldom any mistakes of the kind

1151. Is it not that a very great infirmity in the system that this is left to the discretion of one Officer?—Yes; there is no doubt that you are giving to the inferior Officer the power of giving a Parliamentary title.

1152. And the case that I have mentioned did actually occur to your knowledge?—I heard of it.

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Nov 12, 1878

Mr James M'Donnell.

MR. JAMES M'DONNELL examined.

1153. To the VICE-CHANCELLOR.—You fill the office of Recorder of Titles, and also of Examiner to one of the Land Judges, Judge Ormsby?—Yes

1154 And I believe you have acted in the capacity of Examiner since the Court was instituted?—Since the office of Examiner was instituted in April, 1850

1155 You favoured us with replies to some queries in reference to the working of your office?—Yes.

1156. I suppose we may take these as your evidence on that subject?—Certainly. (See App. p. 145)

1157. I think you gave the number of titles recorded annually since that Act came into operation I have your return now before me, and I find that it shows a considerable falling off in the number of titles recorded of late years?—Yes, a great falling off

1158. Can you state how many of those titles have been recorded in consequence of the 7th section in the Landed Estates Court Act (28 & 29 Vic, c 88), under which titles are recorded, unless a requisition to the contrary is lodged within seven days?—I cannot; but a considerable number have been recorded through ignorance of that section.

1159. Have you any documents that would tell what titles were so recorded?—No; I can only speak in a general way, from people complaining that their deeds had slipped in without their wishing it Some people, when the fact came to their knowledge, asked to get their deeds out again.

1160 Is it the practice now with solicitors acting for purchasers in the Landed Estates Court, to give notice not to record title?—Yes, but they have, under the section, to produce a requisition signed by the purchaser himself, requiring that his title shall not be recorded

1161 Can you state whether the majority of titles are recorded or not?—Only about one or two per cent of the titles are recorded at present, a very small proportion, at all events

1162 Of the estates sold in the Landed Estates Court?—Yes

1163. Can you account in any way for the non-recording of titles, under the Record of Titles Act?—I don't say that there are not real reasons that would influence purchasers if they took the matter into consideration themselves, but the solicitors disapprove of it, and advise them not to record titles.

1164 I believe that practically the system has failed; it has not been taken advantage of to any extent?—No; you will see that from the return I have made.

1165. Could you make any suggestions as to any way in which the objections that have been raised against it could be removed?—The greatest obstacle in its way is its unpopularity with the profession There are a great many reasons which would influence myself against it; objections, some of which could be remedied, and others of which could not be obviated. Nothing would induce me to record an estate of my own, because I would be putting myself too much at the mercy of the accuracy or the honesty of an indivi-

dual, the Recording Officer It is the act of the Recording Officer that transfers the estate The deed this is brought in is only an authority for him to do it; if he does it without authority the estate equally passes, and I have known mistakes occur, which, if they had not been discovered and remedied, would have deprived people of their property

1166. Do you require the production of a survey, or map of the estate when recording a title?—Not unless there is a map on the conveyance

1167. How are the boundaries ascertained—how are the parcels specified?—The parcels are specified by the conveyance of the Court, and, if they are there ascertained by map, there is a map on the record, but if not, there is no map.

1168. All the duty, then, of the Recording Officer is to see that his record accurately copies the parcels in the deed?—It is the deed itself—the conveyance of the Court—which is, in the first instance, recorded.

1169. Is it recorded in full?—Yes.

1170. Then what you issue is a certificate?—Yes, either a duplicate or a certificate, as the case may be

1171. And is that at the option of the officer?—If an owner comes in of his own accord he has the deed prepared in duplicate, and we issue him the duplicate; but if he comes in by mistake—under the section to which you referred—we are obliged to issue him a certificate, and that is founded upon the deed, though not a copy of it

1172. But the parcels are made to correspond accurately with the parcels in the original deed of conveyance?—Yes, and if there is a map on the deed it would be exactly copied on the certificate.

1173. Do you think it would be possible, in this country, to introduce the system of recording title in lieu of the system of registering deeds?—I think it would be quite possible, but whether it would be advantageous or not is another question

1174. That is, by making it compulsory by Act of Parliament, you mean?—Yes.

1175. Of course anything could be made possible by an Act of Parliament, but would it be popular here?—I am certain it would not be popular.

1176. You have a great deal of experience of the working of the Registry of Deeds Office, I suppose?—I see, in one branch of it, a good deal of the working, but I am not acquainted with the internal detail of the office very much I am familiar, however, with the *result* of the working

1177. And with the system of registration pursued there?—Yes

1178. Do you think it would be an advantage to substitute registration of a full copy or a duplicate of the deed for the memorial as at present worked on?—I do; but I think there would be great unwillingness to do that, from the fear of disclosing people's affairs. But if a deed were registered *in extenso*, and not exhibited except on some proper authority, from the parties registering the deed, or on the order of a judge, it would probably meet that objection

1179. Would you state what you think would be the advantages derived from the registration of a deed in full?—We find constantly that titles are spoiled by having notice of a registered deed without any evidence of its contents. If the deed was registered in full we could always have evidence of its contents, and thus avoid what at present leads to very great expense to parties who are required to procure proof of the contents

1180. According to your experience, is it a common thing to find a memorial which, after the *habendum*, states "that the lands are to be held upon the trusts and to the uses thereinafter mentioned?"—It is, very common.

1181. You, of course, can obtain no information from such a memorial of the limitations in the deed?—None

1182. For the statutory purposes of registration, I suppose you would be of opinion that a mere abstract, in tabular form, stating what is required by the statute, be sufficient for the department to work upon?—Quite sufficient

1183. But do you think that would be a desirable substitute for the present arrangement, or would you, in addition, require that full copies of the deeds should be brought?—I would have both I would require an abstract, in addition to lodging the deeds *in extenso*, for the purpose of giving, in a concise form, the matter to be registered in the books.

1184. Would you recommend, then, as an improvement on the existing system, that full copies of deeds should be lodged, and that, besides, there should be an abstract brought in by the solicitor?—Certainly; and in preference to a copy, I would rather that the deed itself was lodged

1185. But whether the deed itself were lodged or a full copy, you are of opinion that there should, in addition, be an abstract containing the statutory requirements which should be the material for the Registry to work upon for their indexes?—Yes

1186. Would you think it desirable, supposing that it was provided that a copy only should be lodged, that a comparison should be made by the solicitor lodging the deed, and certified by him, or that it should be made in the office on the authority of the officials?—If it were to be used as evidence hereafter, I think it would be better to have it done in the office; but for all practical purposes a copy certified by the solicitor tendering it for registration would be sufficient.

1187. If used as evidence to the same extent as a memorial is used, would it be desirable to have it compared in the office?—Yes, I think so. It would prevent question thereafter.

1188. Have you ever considered whether it would be desirable to make the Ordnance Survey a basis of registration?—I have. I think it would be very desirable.

1189. How would you propose to work upon it?—I would either describe the lands in a deed as being the lands known on the Ordnance Survey as such and such lands, or if they were not put in the body of the deed, I would require the party coming to register to make a certificate on the back of it that the lands therein mentioned were known by such and such names on the Ordnance Survey, and that it should be registered against those names

1190. You are, of course, aware that a great many deeds are brought in for registration that don't specify either the barony or the county?—I am.

1191. Are you aware of inconvenience as to searching being caused by that?—Oh, great inconvenience.

1192. Would you think it desirable to prohibit the registration of any deed not containing those matters either in the body of the instrument or by certificate appended thereto?—Certainly

1193. Would you consider a certificate by the solicitor who brings in the deed for registration that the lands mentioned in the deed fulfil the description in the Ordnance Survey, or if there was a defect in stating the barony or county—that they are situate in such and such a barony or county, sufficient, or would you require that to be certified by one of the parties to the deed?—I think the solicitor's certificate would be sufficient.

1194. Do you think any practical difficulty would arise if the parties were required so to refer to the Ordnance Survey denominations?—None. All our conveyances in the Landed Estates Court are on that basis.

1195. Be kind enough to look at the statements made by Mr. Dwyer, Registrar of Deeds, in this document (Mr. Dwyer's suggestions) in reference to the difficulty of attaining accuracy as to these materials—settling the baronies and counties, and in which he asserts that in certain cases, of which he gives instances, deeds have come in even from the Landed Estates Court without specifying the barony or county—Sometimes that may happen, but not as a rule. Anybody may make a mistake.

1196. But would that be merely the result of an accident?—Entirely.

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1197. Not from any difficulty of ascertaining the proper Ordnance names?—No; I looked through this document. Mr Lane (the Secretary) was so good as to send those suggestions of Mr. Dwyer to me, and I have a remark or two to make. One class of these refers, not to lands, but to ancient rents arising out of lands, and it is just possible that, though the situation was given in our rental, the parties who drew the deeds thought it better to give the exact description contained in the ancient fee-farm grant, and not travel out of it; that may be so, but we mention the situation in our rental. In some of the other cases the omission was the result of accident. Here, for instance, it is obviously a slip—for the name of the town is Baltinglass, and being a town, it was omitted to mention the barony and county. It was a slip, and I was very glad to be made aware of it. I called attention to it, and will endeavour to prevent mistakes of the kind arising in future, and I shall ask Mr. Dwyer to let us know if any deed of the same kind comes to him again, so that the matter may be investigated and set right.

1198. Do you think it would be desirable to prohibit the registration of any deeds not referring to land at all, such as policies of insurance?—Certainly, I think that would be most desirable.

1199. Doesn't the registration of such instruments merely tend to encumber the Registry?—Yes.

1200. In the requisitions for searches that you send in from the Landed Estates Court, are you in the habit of excepting certain acts?—Yes, excepting any acts the parties like. As a rule the acts excepted are the acts which are stated in the title.

1201. Are you aware that complaint has been made in the Registry Office of the way in which the making of the exceptions works—that it imposes as much trouble as if the deeds themselves were set out on the search, and that they receive no fee in return?—I am not aware that there have been complaints, but I am aware that it is just as troublesome to them whether the deed is excepted or returned.

1202. Would there be any objection, in your opinion, practically to abolishing exceptions altogether?—None whatever, except that it would throw extra expense on the public in searching. They have to pay a fee on the acts returned.

1203. Only for that you see no advantage in making exceptions?—No. I would greatly prefer that acts were not excepted, because a search without exceptions would come to me in a more readable shape. It is easier to examine a search with the acts returned on it than one with the acts excepted.

1204. You have, in fact, to go through two processes—first to read the acts returned, and then to look at the acts excepted, and take them all in chronological order?—Not so much that, but they are excepted in closer order. The acts returned are in a more readable form, and in larger space.

1205. But also you have to go through the double process—of referring in one case to the acts returned, and to the other to the acts excepted?—No, the difference is just in the form of the writing. It is more convenient in one way than in the other.

1206. You are aware that a great number of the Townlands in Ireland have a multiplicity of *alias* denominations?—Yes.

1207. And doesn't the existence of these *alias* denominations cause great additional trouble in registering, and also in searching?—Yes, and in reading titles, too.

1208. Do you think it would be an advantage to insist upon one standard denomination being assigned to every Townland?—I do.

1209. Do you see any difficulty in assigning the Ordnance name as a standard?—None whatever.

1210. It has been stated to us by some of the gentlemen examined that they would have a great deal of difficulty sometimes in ascertaining that the names appearing on the deeds, which may be old names and different from those in the Ordnance Survey, refer to the same lands as those on the Survey?—I have frequently found difficulty in identifying the parcels in old deeds with the modern names of the same parcels. This is a difficulty which must be overcome for the purposes of title. If the person conducting a sale in the Land Court failed to prove that the names in the deeds covered the lands he seeks to sell I should reject the title. I have known persons loose their money because they were unable to prove that the lands named in their securities were identical with the lands they sought to sell. But if you can point out the lands, either on a map or on the ground, there is no difficulty whatever in ascertaining the Ordnance names of them.

1211. If you know where your lands are you have no difficulty whatever in defining what the standard name is?—None whatever.

1212. Do you think it would be desirable to limit the time within which a deed should be registered—either having regard to the date of the deed or the death of the grantors?—No, I would allow it to be registered at any time.

1213. At present you have to continue searches against grantors long after their death?—Yes.

1214. And in strictness you cannot limit that search or should not limit that search?—No, in strictness the search should run as long as a witness to a deed executed by the grantor could live, which might be 70 years or more after the death of the grantor.

1215. But in practice it is common to limit such searches to five or ten years from the death of the party?—Yes.

1216. Would you think it desirable to limit searches to a certain time after the death of the grantor?—No, I would rather register the intestacy or will of the deceased party, and then give priority to any person claiming under his heir or devisee as the case may be.

1217. But suppose an unregistered deed by this party turns up afterwards and is put on the registry as a dealing with the property, how would you act?—If it was registered before any dealing by the heir-at-law or devisee, I would give effect to it, but if it was registered after dealing by the heir or devisee, I would let it fall behind that.

1218. You would require the heirship or devise to be registered?—Yes.

1219. And what effect would you give the non-registry—what penalty would you impose on non-registration of the death or the heirship or the devise as the case might be?—The heir-at-law or the devisee might cut out his adversary (as I may call him, suppose the heir registers the death as intestate and executes a conveyance, it would cut out a will or party claiming under it.

1220. But the two things must combine, the heirship or devise must be registered, and also the conveyance by that heir or devisee?—Oh, certainly.

1221. Would you give any effect to the registration of the heirship or devise in itself? No, it must be followed by a registered act by that party.

1222. Do you think it would be desirable to restrict the power of registering deeds, to deeds the proof of the execution of which by the grantors was forthcoming, or would you allow deeds to be registered upon the execution of a grantee without proof of the execution by the grantor?—I think I would only allow the deed to be registered against such grantor as had executed, and whose execution of the deed was proved or certified according to whatever form was adopted.

1223. Do you think it desirable to substitute a certificate for the present affidavit of perfection?—I do, the affidavit is an expensive thing to make and very frequently takes too much time, and for *notice* the certificate would be ample I think.

1224. Whose certificate would you require?—That of the solicitor who presented the deed for registration.

1225. Certifying to the execution of it by all the persons against whom it is to be registered?—Yes.

1226. I believe that it is the practice of the Landed Estates Court, in directing searches, to direct searches

only against names?—Except for a very brief period we never did anything else.

1227. Than search against names of persons only?—Yes.

1228. And what search do you require—do you require search in the names, index, and search against the names in the land index, or how is it worked out?—It is a search for acts by so-and-so, affecting the lands of so-and-so.

1229. But there is no search made in what is called the land index?—What we have generally is a negative search, and all negative searches, are, I think, checked against the land index.

1230. Do you always require negative searches for sales in the Landed Estates Court?—Almost invariably.

1231. If the registry of titles were still to be continued, do you think it would be desirable to amalgamate it with the Registry of Deeds Office?—I do.

1232. Would you consider it desirable to put it under the control of the Land Judges?—I do, with an easy reference on any question of difficulty from the Registrar to them.

1233. Would you think it also desirable to consolidate the Registry of Judgments Office with the Registry of Deeds Office?—Yes, if I kept it at all, but I would abolish it altogether.

1234. And what would you do with old judgments now requiring to be re-registered?—I would alter the law with reference to the future re-registry, and the present books would still be there for reference as to past judgments.

1235. Would you require no future re-registration?—I would not.

1236. Do you approve of the present system of the registration of judgment mortgages?—If you keep them as a lien on the land I would, but I think the system is bad.

1237. And what would you propose to substitute in its place?—I would not let these judgments affect the land at all, I would rather let a creditor sue out an execution as in the case of chattels, but instead of placing it in the hands of the sheriff I would make it the foundation for a petition before the Land Judges, and make a sale in their Court the mode of levying execution of a judgment as against real estate.

1238. In England they get a writ of elegit, and they would then have power, under the statute, by summary procedure, to apply for sale to the Court of Chancery, do you approve of that?—I would simply call these judgments against real estate, and make them quasi-petitions for sale in the Landed Estates Court.

1239. There would be no practical purpose or gain in suing out an elegit in the first instance?—No.

1240. Your opinion is that judgments should be made capable of being enforced by execution against land?—Yes, and that they should be prosecuted at once.

1241. And then, that the writ sued out upon the judgment would stand, you suggest, in place of your present proceeding of petition for sale?—Yes; or be the ground on which a petition might be presented.

1242. And that can be done in a small way, with very little expense, and in a very short time, by the presenting of a petition?—Yes; the only reason I would not send it to the sheriff is, that a great loss is occasioned by people purchasing without title; I would make a writ of that kind run against chattels real and against real estate.

1243. Then would you require still such a title to be made out that would enable you to give a Parliamentary conveyance?—I think it would be a great deal better if we were to give a title subject to imperfections, because we could sell then all kinds of property without loss. The present machinery is too expensive for small leasehold estates.

1244. Would it not be essential to make some alterations of that kind in case the process of realizing judgments by this new execution against land were adopted?—It would be an advantage to sell imperfect titles with conditions.

1245. Would you apply that generally to all sales in your Court—that the judge should have the power in cases that good titles cannot be made out at a commensurate expense—that he should have the power of selling with conditions?—I would.

1246. You are aware that at present it very frequently happens that estates that you are unable to sell with a Parliamentary title have to be sold in the Court of Chancery with conditions?—Yes.

1247. That is where a title cannot be made out to warrant your giving a Parliamentary conveyance, it goes to the Court to be sold with conditions?—Yes, and a title might be a very good holding title, though we could not give a Parliamentary conveyance of it.

1248. Judge ORMSBY.—I should like to know your view of these judgments—whether you think it would be right to have a writ of execution, so as to be the foundation of a proceeding in our Court for so small an amount, as judgments are often obtained for, or whether you would suggest any minimum sum on which proceedings should be taken?—No. I think if judgments as such ceased to be a lien on lands, and you have the right of selling with conditions it would be wrong to stop a man because his debt was not of a certain amount. That might be taking away from him his only remedy.

1249. For instance, we don't appoint a receiver over an estate when less than £150 is the amount of the debt, do you think it desirable to have any limitation of the amount?—No, I think not. It would be a denial of justice to any man not having a debt of that amount.

1250. Do you think that for judgment, say of £10, it would be right to grant a sale of a man's estate?—I would stop any malpractice of that kind by stopping the costs if I was of opinion that a party was taking a proceeding in our Court in a vexatious way, I would give him his own money, but I would not give him his costs, and I have known that to be done in the case of petitions for sale under the present system.

1251. Then you would give a creditor holding a judgment liberty to proceed in our Court for any sum, no matter how small?—I think you must, if you make use of the Court, to, in fact, levy execution.

1252. There is one thing I wish to learn from you about the registration of titles—you said that too much was left to one person's honesty and accuracy. By that I apprehend you mean the officer?—I mean myself.

1253. The officer for the time being—have you ever known mistakes made in titles by others besides the officers of the Court?—Oh, there must be a mistake by some one as well as the officers, because if they get the title right, they put it right on the record. When a mistake occurs there must be a double mistake—the error first of the person supplying the note to be recorded, and the error following it up, that of the officer.

1254. Might not the officer be guilty of a mistake if everything was brought right to him by not carrying it out?—Hardly.

1255. Have you known, in point of fact, charges omitted from the record?—Oh, yes.

1256. And lost determined by such omission?—No, they were not actually lost. We set them up again. I think I know the case to which you refer. I have the particulars of it here.

1257. It was in the estate of James Comerford (folio 156). James Comerford was on the 1st June, 1867, recorded owner of a fee-farm estate in the county Wicklow. The recorded owner died, but by his will he (in effect) devised one moiety of the estate to his wife for her life, and the other moiety to his three sons, in equal shares, as tenants in common, and he charged his estate with legacies for his daughters, and empowered his wife to charge his estate with payment of £1,000. In October, 1867, Mrs Comerford (then a widow), and her three sons, applied in writing

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to be recorded as owners of the estate subject to the trusts of James Comerford's will. The entry made on the record was that Mrs. Comerford was owner of one moiety for life, and the three sons were owners of the other moiety, without adding "as tenants in common," and as to all subject to the daughters' legacies, but no mention was made of the power given to the widow of the charge to the extent of £1,000. This was not discovered until June, 1878, when the 3 sons, their mother having died, applied to be recorded as owners of the entire estate, and brought forward the widow's will, in which she had charged a portion of the £1,000, and they dealt with it in their statement On reading the statement we saw that the widow's power to charge was not in the record at all, and I made inquiry and found out that these two matters had been omitted, viz.: that the sons held as "tenants in common," and that the widow had power to charge £1,000 on the estate

1258. Have you known, in your experience, other errors of the same kind to occur?—I have. I remember very early in Judge Longfield's time, there was a mistake in an entry recorded against the estate of James Glenn. He had bought in trust for himself and his brother, and in pursuance of an arrangement he brought in a conveyance to be recorded conveying an undivided moiety of the premises to his brother. By a slip, I believe it was a slip in the office, but I am not quite certain, the entire estate was passed to the brother It was discovered and corrected before any bad consequence had occurred

1259 Do you find persons dealing sometimes with recorded estates without recording intermediate transactions?—That is very common In Comerford's estate it occurred, and it is one of the things that make me think that our record of titles will not work as the law now stands. In that case, instead of recording each transaction affecting the estate as it occurred they waited until they wanted to deal with a stranger, and then they came in with a whole lot of transactions to be written up, and on looking into the matter we found that it was easier to give a fresh declaration. The record of title does not work in the way people think. It is supposed that when a record is established every transaction is recorded forthwith as would be done with money in the funds, but the two cases differ thus—It is done with money in the funds, because the parties cannot get their dividends until it is done, but as to land, it is not done, because the parties are not obliged to do it until they have dealings with a stranger. They then come in with a whole list of arrears of transactions to be posted up. It is found to be very troublesome and exclusive The officer has to go back and write up the record, and the party frequently finds it better and cheaper to apply to the judge, disclose his title, take searches, and have a virtually new title declared for him In Comerford's case the nature of the transaction made this the cheaper course.

1260. The VICE-CHANCELLOR.—But, for the purpose of making an order, the title has to be investigated fully from the last transaction recorded?—Yes; in each case we must investigate the title, but, in addition to that, we have been obliged to spread out on the face of the record every closed transaction. Of these legacies to the daughters, some were paid, some partly paid This power to charge for the widow had been exercised by her will to some extent. It was partly paid off, and it was partly still due. It would have taken four or five pages of our record and a good deal of expense to the parties in stamps and fees, and they found it easier to make an application to the judge, disclosing all the facts, and get him to make an order in the nature of a declaration of title, thus cutting the Gordian knot for them.

1261. That title commenced with a Landed Estates Court conveyance, and went down strictly through it, as if it were a sale out of court to a purchaser to give a Parliamentary title?—Yes

1262. I presume it was only the result arrived at by the judge that appeared on the record?—That was all; but in the readings on the order all the title was referred to.

1263. Do you think that any of the unwillingness of the solicitors to record title has arisen from there not being an officer always at hand to transact their business for them?—Some objection has arisen from that, but I think the real objection is, that there is a very strong prejudice against it I don't think, in that respect, the recording of title has had fair play, for there has not always been an officer in attendance.

1264. Dr. LONGFIELD.—Do not recorded and non-recorded titles sometimes get mixed in the same conveyance or settlement?—Yes

1265 And does that cause inconvenience?—Yes, when a small portion of a large estate is settled to certain uses, and that is dealt with and comes in to be recorded, we must get a copy of the settlement, and have to read through a large deed for what only affects a small scrap of the land They don't amalgamate well at all.

1266. A man purchases an estate and records it and sells it in eight or ten years afterwards. Is the sale afterwards much cheaper than if he had not recorded it, and merely sold it under an ordinary conveyance, giving a negative search, with no date on it?—I think there would be very little difference. I am assuming now that in the meantime he had done nothing with the estate.

1267. That is, if he had bought the estate in '70, and recorded it, and sold it in '78, would he sell it on cheaper terms than if he bought it in '70 and did not record it, having done no act in the meantime?—No.

1268. And do you think a purchaser would equally accept one title or the other?—I think he would nearly as soon.

1269. Which do you think he would prefer?—Well he would of course have a Parliamentary title in the one case, but I don't think the public values the difference.

1270. Do you think it would improve the operation of the Registry Act if the question of notice on deeds was not permitted to be raised for the purpose of voiding a registration?—I think nothing except fraud should void it.

1271. The VICE-CHANCELLOR.—What would you consider fraud—would you consider actual knowledge of an unregistered deed fraud?—If you knew of it, but not if only your solicitor knew of it.

1272. But personal knowledge you would consider fraud?—Yes.

1273. Dr. LONGFIELD.—Do you think it should be evidence of fraud or conclusive as to the existence of fraud?—I think it should be merely evidence—not conclusive evidence—because the party might allege that though he had known of the deed it had passed from his memory.

1274. I'll mention a case—a lady released her jointure, and took a new charge in its place, and when she did that she knew that there had been an intermediate instrument, and lost her jointure, would you consider that fraudulent?—In her case?

1275. Yes?—She was the person against whom the fraud was committed, don't you think.

1276. No, the intermediate deed was not registered?—And she had knowledge of it.

1277. She knew of it?—I think if she executed the deed for the purpose of releasing her jointure to let the other in, and then set up the deed afterwards, it was dishonest.

1278. And you would set it aside?—Yes.

1279. You would have absolute knowledge, and nothing short of it?—Personal knowledge or intent to deceive. Surely if the lady executed the release of her jointure for the purpose of letting in the charge, she could not have set up her deed honestly.

1280. But it was another unregistered deed that was let in?—I don't quite understand your question. There was a jointure.

1281. Yes, and an unregistered charge, and there was going to be £1,000 borrowed She released her jointure and took another charge in its place intending, of course, that it should be postponed to the £1,000, and she then set that up against the unregistered charge?—I see. I would let her hold her priority then.

1282. That is you would let the knowledge be evidence of fraud, but not conclusive evidence?—Yes.

1283. You have said you would not allow knowledge by a solicitor to be considered knowledge by the client?—I would not.

1284. Now, as to these judgments would you, in the case of small judgments, require the party filing a petition to sell to show that he had made some effort to get payment before he filed his petition?—I think that would be reasonable.

1285. Judge ORMSBY.—I daresay you are aware it is the practice of the Court at present not to fiat petitions for small sums unless it is shown that there are no other means of recovery?—Yes, that is the practice of the Court at present.

1286. The VICE-CHANCELLOR.—Do you think that the recent restrictions on recovery of debts against the person afford any additional reason for facilitating recovery against the real estate?—I do.

1287. Practically at present it is very difficult to make remedy against the person for recovery of debts?—Perfectly impossible

1288 Mr. MADDEN.—Where conveyances have been executed by the Landed Estates Court since the Record of Titles Act, you cannot say how many were voluntarily brought in and how many were caught by the 7th clause in the Act to which your attention has been already directed, but I presume that all old Landed Estates Court conveyances recorded have been brought in voluntarily?—Certainly.

1289. And how many of these have been brought in?—Sixty or thereabouts

1290 The VICE-CHANCELLOR.—Conveyances from the Incumbered Estates Court, and the Landed Estates Court before this Act was introduced?—Yes.

1291. Mr. MADDEN.—You said that you had objections to the Record of Title, which would prevent your recording titles of your own, some of which were incapable of being obviated and others of which were capable of being obviated, and you mentioned as one of these objections the fact that so much power is left to the individual officer?—Yes.

1292. But you only mentioned one—what are the others?—That is the great radical objection.

1293. That is incapable of being removed?—No, that is capable of being removed, because you could make the party sign the record in place of the officer

1294 Is not the theory of the Record Titles Act to keep the Parliamentary title as good as it was on the day when it was given by the Land Court?—Certainly

1295. When you have a simple transaction like a mortgage or a sale out and out, there is very little need of the Record of Title, but when you come to a complex transaction and complicated dealings, such as that, certain parties are tenant in common, is it not in your opinion dangerous to have the rights of parties finally and judicially decided by an officer without argument?—In a complicated case of that kind the officer would not decide—he would refer the matter to the Judge

1296 Is not the signature of the Recording Officer a final and judicial act binding all parties on the matter then before him?—It is.

1297. And it is made without discussion?—Yes

1298. And may absolutely conclude the rightful owner?—Certainly.

1299. So that in a simple case there is not very much gained by recording, and in difficult cases you get your Parliamentary title perhaps at the expense of the rightful owner?—Yes, I have always thought it a great objection, that the Act empowers an officer of the court to give the same Parliamentary title that the judges give.

1300. No matter how difficult the question may be, or how complicated the dealings, the officer decides the matter?—Yes, if he makes an entry he does, but he is at liberty to hold his hand.

1301. Wasn't there a case in which tenants in common, or persons who were really tenants in common were entered as joint tenants, and that then upon proof of the death of one, the survivor was entered as absolute owner of the estate?—Not to my knowledge.

1302. Mr. Littledale who was examined here said, he was aware of that case?—That may be, because the cases I know of are cases that have arisen since I took over the duties of the office

1303. That defect in the system is in the nature of things—it cannot be remedied?—No

1304. Can you mention some of the objections you have to the present system which are capable of being obviated?—Well the radical objection that I have to the officer being the person who does everything would be obviated if the parties themselves signed the record, as they sign the bank book in the transfer of stock. Of course the officer would give his construction of questions arising, but the parties, if they signed, would always be answerable for having adopted that construction. At present the recording is completed by my signature, and the deed brought in is merely an authority to me, but what I pass the record passes no matter whether the deed gave me authority or not If the Record was signed by the parties themselves as well as by me, the difficulty would be got rid of because it would be their own fault if they signed away their own estate wrongfully

1305. The VICE CHANCELLOR.—But suppose they were signing away somebody else's estate?—That is hardly possible.

1306. Didn't it occur in the case you mentioned—wasn't there actually an assignment of one moiety to a person who was not entitled to it?—Yes, but it was an assignment that was put upon the Record, and under the case I am supposing, the real owner of the other moiety would have been called to sign as well as the officer, and he would have seen the error Nothing but your own signature can transfer stock or consols

1307. Mr. MADDEN.—But that would afford no protection in the case of two persons being entered as joint tenants, instead of tenant in common, and the survivor simply proving the death of one of them, and being recorded as owner of the entire; protection could not be afforded to the representative of the dead man?—No, but the entry which caused the original error would have been signed by this declared party.

1308 Dr. Longfield suggests to me that there was a means, possibly of ascertaining how many conveyances were voluntarily recorded, because, in these cases, a duplicate conveyance is brought in?—I was thinking of that when I was asked the question by the Vice-Chancellor, but it would hardly be fair to take that test, because there are a great many people who did intend to record their deeds, but did not know about the duplicate; the Judge, (Dr. Longfield), may remember I used to ask each man "Do you want to record," and, that if they did, I sent to the printer and had a duplicate deed made for them They did not know at first that it could be got

1309. Dr. LONGFIELD.—And that test, then, would lead you to suppose that there were too many involuntarily?—Yes.

1310 Mr. MADDEN.—Have you ever considered the system of Registry of Title existing in England under Lord Cairns' Act?—I have.

1311. What is your opinion of that Act?—I think it will eventually come to the same end as ours.

1312. Do you think there is any probability of that system being popular here, if substituted for our present system?—It might be at first, but it would come to grief in a few years.

1313. Then would you discontinue the Recording of titles?—I would.

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1314. And transfer all the present recorded estates to the Registry of Deeds in the same manner as can now be done by owners voluntarily?—Yes.

1315. The public should bear the expense, of course, of closing the record?—Yes; I think so.

1316. With reference to the old judgments, you said you would discontinue re-registering them, what do you think of the suggestion that holders of old judgments should be given an opportunity of registering them against specified lands, and placing the judgments, when so registered, in the same position as judgment mortgages?—I would rather let them die out, as they are rapidly doing They are now required to be re-registered every five years, and the result is, that at the end of every five years, many of them drop out.

1317. Is it your opinion that it would be very advantageous to have only one office to search in?—Certainly

1318. And if you don't bring these old judgments up to the Registry of Deeds in some form, you keep the Registry of Judgments office as a separate one to search in?—I would have no objection to transfer it to the Registry of Deeds for the purpose of winding it up; you will be able to do that very soon, I think

1319. The VICE-CHANCELLOR.—I think we have a return from Mr Perrin showing the rapid diminution App 147 of the judgments he registered?—Certainly; I know that by the judgments returned to me on searches.

1320 And in twenty years time, probably, the whole thing would be closed; it is, I believe, closing itself rapidly now?—If you made an order that judgments were not to be a lien on real estate any more, they would die out very quickly.

1321 Mr. FINDLATER.—Don't you permit a person to transfer his own estate without having a solicitor to act for him, in the Record of Titles Office?—We would if he came, but I have known no instance of that kind

1322. And how would that apply in the case you spoke of—taking away the officer's responsibility by the party signing the record himself?—If he signs it it is his own act You don't prepare the assignment of consols, or of bank stock yourself, but to complete it, you must sign it yourself

1323. But do you think it is quite an analogous case?—In a transfer of bank stock no question of construction or of title arises?—I would give the party signing the record the option of getting advice, if he chooses to have it; if he does not, he is thinking and acting for himself, but, if the officer not only makes the entry, but also signs for him, he will naturally feel that another man's judgment is substituted *in omnibus* for his.

1324. The VICE-CHANCELLOR.—Would what you suggest not be turning the *quasi* judicial act of the recording officer into a conveyance by the parties themselves?—Yes; and it would put upon everybody who came to look for a transfer on the record, to verify the the signatures there.

1325. But how could a greater efficacy be given to the execution of the parties themselves—what would be the way in which it could be carried out?—Exactly as it is carried out at present, with this exception, that I would have the parties sign as well as the officer, and I would make the value of a purchaser's title depend on that—that the man from whom he bought was entered on the record as owner, and that he had that man's real signature.

1326. Then where would the officer's responsibility cease, and where exactly would the parties' responsibility begin?—The officer, in that case, would not be answerable for anything except the proper keeping of the books.

1327. Dr. LONGFIELD.—When dealing with bank stock, I have only to see that such and such stock is entered, and the bank clerk sees to the signature, that it is genuine?—Yes, and the bank is answerable in case of mistakes, but the recording officer is not.

1328. The VICE-CHANCELLOR.—Have you seen the publication by Colonel Leach, as to what he proposes?—I have.

1329. And isn't that something similar to what you are suggesting—that there should be a record kept in which all the dealings should be recorded by the parties themselves?—No, he only proposes that there should be a record kept by the parties themselves

1330. And that there should be a duplicate in the office as well?—But he does not require that the office record should correspond with the one in the parties' hand. The fault in all systems of registering titles, as distinguished from registering deeds, is this, that in consequence of wills and devolutions by operation of law not requiring in real estate any sanction at the moment they are never looked after or recorded until people are inconvenienced, and then when they do come in you have to go back and write up everything. And that is very troublesome, because when a party comes in in that way he has to go back and prove, as in a contested action, each step, which occasions great expense.

1331. Mr. FINDLATER.—Don't you think that the owner has some additional responsibility—take that case you mentioned—Comerford's estate—and suppose it was the party himself who, without the advice of a legal man representing him, put the erroneous construction upon his interest, do you think the officer would be relieved from responsibility by the party's signing the record?—I don't think the officer would be relieved from the responsibility of having done wrong in making a mistake, but the man would feel in a better position if he had the opportunity of guarding his own interests As it is done now he has no such security at all

1332. But still you are giving a Parliamentary effect to those erroneous acts of his?—But it is not an erroneous act if all the tenants in common sign and complete the record, because they can, if they choose to do so, make themselves joint tenants, and they are doing it themselves without making me do it.

1333. Mr MADDEN.—But as the result of this error you give them a Parliamentary title?—As against themselves.

1334. The VICE-CHANCELLOR.—Even if the parties to the transaction were to sign the book, a mistake in that transaction recorded by the officer might prejudice seriously the rights of third parties?—No; because every person to be prejudiced should sign the book.

1335. But the officer might mistake as to who were the parties prejudiced?—I don't think so. You see there each party having any interest, and can readily avoid that mistake.

1336. You are talking of simple interests, but there may be very complicated interests arising out of settlement, and so forth?—The record would then be in abeyance by the judge. No trustees, except trustees for sale, have any right to be recorded as owners A party under a settlement may come in and have his particular interest recorded, a tenant for life may have his interest recorded, and a remainder man can have his interest recorded, but then those proceedings go before the judge, by way of a *quasi* petition—we call it a statement, and a declaration is made setting forth the exact rights of each.

1337. Does not that become a very complicated mode of procedure?—Yes; but there would be very little risk of people mistaking their rights, or being mixed up with their neighbours.

1338 Mr. MADDEN.—Suppose the case of a man coming to record as a tenant in tail, if you saw that there was a question as to whether he was a tenant in tail or a tenant for life, with power to appoint amongst his issue, you would not decide that question?—No; that would be for the judge.

1339. At present the judge decides it himself without hearing counsel *pro* or *con*, isn't that so?—Yes, but he can call for argument if he thinks that necessary.

1340 Would the decision of even the most eminent judge upon questions of this kind be of much value without argument, and without his attention being called to the recent decisions?—I think it is for the

benefit of the public that the judge should have the power of deciding cases of this nature without argument, if in his opinion the case does not require argument And you must remember that if any question of difficulty arises counsel are heard. But if in the occasion of devolution of title a legal argument were to take place on questions which perhaps may never be of practical importance, might not the system be described as Conveyance by lawsuit?—That is a consequence of keeping the title perfect and indefeasable at each step.

1341. Perhaps you would give us your opinion as to the establishment of local registries Have you considered the propriety of establishing county or local registries for the registration of deeds?—Never very much, but I do not see how it could be done.

1342. Mr. FINDLATER —In the case of a deed executed, say in Scotland, is it not required by the Recording Officer that some one known to him should make an affidavit verifying the execution?—No, never

1343 I am personally aware of a case in which your predecessor did require that?—We would require the deed to be witnessed, and that transaction to be verified by affidavit, but not by a person known to us

1344. I think what I have stated was Mr Ulm's practice. I think in M'Clennan's estate, when it was transferred after the death of Mr Mackey, the intestate owner from whom he derived as heir-at-law, the Recording Officer required that the deed should be executed in Scotland by the heir-at-law, in the presence of one of my clerks, who was known to the Recording Officer, and that clerk had to go over specially at a cost of £13?—That is not the practice now, at all events. We require that the execution of a deed shall be witnessed by a solicitor, or, if a solicitor cannot be got, by some person in the position of a notary, or a magistrate, or some person in a good position in life, better than that of an attorney's clerk. I would not receive a deed witnessed by your clerk, except under very special circumstances

1345. Quite so I think you said that you thought that in place of the affidavit to the memorial for the purpose of registering a deed, the certificate of the solicitor would be sufficient?—Not as a substitute for the memorial, but for the affidavit of perfection.

1346. That is attached to the memorial; but there are many places where deeds are executed that it would be almost impossible to get a solicitor to certify, and great difficulty might arise?—Then I would take the affidavit in that case All I meant was, that I would be satisfied with less than the present affidavit. I think the certificate of any solicitor practising in Dublin would be sufficient for that

1347 That might do well enough; but take the case of deeds sent to Scotland, you might find it very difficult to get solicitors here to certify?—Could we not have the signature of the person executing the deed identified in the same way as the signature of the person making the affidavit is now?

1348 But if the solicitor did not know the man?—Then I would adopt the rule we have with respect to deeds upon the record—I would say solicitors or persons in a certain rank of life. All I would require is authentication of the signature by a solicitor, or a person by whom affidavits can now be taken

1349. Practically I think there would be great difficulty if it were confined to solicitors

Mr M'DONNELL—Perhaps so, and then you could adopt the safeguard I mentioned.

1350. Mr. LANE, Q.C. (*Secretary*) —You don't find any difficulty in getting affidavits made, and that requires a certificate that the person before whom they are made knows the deponents.

MARCH 24, 1879.

MR. MICHAEL F. DWYER examined by the VICE-CHANCELLOR.

1351. The Commissioners were considering your suggestions with reference to improvements in the present system, and are of opinion that a Quinquennial Prospective Index of names in Dictionary order of surnames only should be kept as the present prospective Decennial index is kept—do you approve of that?—I do.

1352. State the objections you have to the present system, and the reasons you have for this suggested improvement?—What I would suggest is that the Decennial Consolidated Index of names required by statute should be discontinued, and that there should be substituted for it a Quinquennial Consolidated Parties' Names Index Having regard to the great increase of business in the department since the passing of the 2nd and 3rd William IV., cap 87, and especially within the last fifteen years, this will result in probably an equal number of books or entries with those in the present series of the Decennial Consolidated Index. The Quinquennial consolidation which I proposed would not be the same as that observed in the Prospective Decennial Consolidated Index at present in official use. That is only consolidation of surnames I would have a consolidation and arrangement both of the christian and surnames in Dictionary order It would be an improvement on the current Consolidated Parties' Names Index, and would render searching more expeditious, more particularly to the skilled searcher. The Sectional Quinquennial Index is more simple and more easily consulted by the unskilled outside searcher, but the Quinquennial Prospective Index would be a better book for the skilled searcher.

1353. State the difference between the two?—The surnames are only in sections in the Quinquennial Sectional Index now kept.

1354. All the entries under one surname appear on one section.

1355. Are they in Dictionary order?—No. In order of the first and second letters of the name only.

1356. And with regard to the second letter in each name?—That is a slower index, necessarily, to consult than where the names are in Dictionary.

1357. What is that made out from?—It is made out from the Day Book.

1358. Directly?—Yes. Both are made out from the Day Book, but one is arranged having regard to the full surname, while the other is, so to speak, in initial surname—that is, made up by reference to the two first letters of each surname That is the one given to the public at present, but the construction of both is perfectly feasible in the office, only that it would require more hands to put on the Consolidated Prospective Index.

1359. Then this Sectional Index is made out from day to day?—From day to day, and every grantor's name in every memorial, is upon it within less than forty-eight hours after the delivery of it into the office. Equally so with regard to the other—they are strictly concurrent though dissimilar in arrangement as regards the surnames

1360 Do you propose to discontinue the Decennial period altogether in the Prospective Indexes?—I would; and if it had been limited now to the five years period the number of transfers would have been very small indeed. That was the first experiment made with that book since my own connexion with the office commenced, and in supervising the spacing of the new books for the new quinquennial period I have no doubt of being able to reduce the transfers to a mere minimum. —that is, in the five years' books—though in the ten years' books I could not

1361. Dr. LONGFIELD.—You made two statements which I do not fully understand—one was that in a quinquennial period there would be as many books or entries as in a decennial period; I suppose you mean in two quinquennial periods?—No; the number of the books and the names would be about the same in

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Mar 24, 1879.

Mr Michael F. Dwyer

either period The number of entries during a quinquennial period now are more than double what they were formerly when the Decennial Consolidation was established. The arrangement of the names, as before stated, will be different, and we will be slower in the Consolidated than in the Sectional, because you have to follow out the whole name with a view to the Consolidated Index, whereas in the other you have the first two letters only.

1362 The number appearing on a search won't be the same?—How is that, Judge?

1363. Because on a search they are acts —I don't mean acts by entries, though.

1364. I understand that now; you also said that the Sectional Indexes were more convenient to the public?—It is a safer book for the public, or unskilled searchers, to work upon, because they are apt to run their eye too quickly and too carelessly along a column of names in Dictionary order, and also amongst other reasons they are less likely to omit searching on the alias spellings of a surname in the Sectional than in the Consolidated Index. The Sectional Index is necessarily slower, and for them, we think, much safer They have only the section of the names to read in the one, and a strict dictionary arrangement of names in the other. We think the other would lead to too much hurrying and glossing over, and that fewer mistakes would occur on the part of the public in examining two Quinquennial Indexes, than in going over the two when consolidated into one book We find that by experience, and some old unofficial searchers resort to the slower process.

1365. The VICE-CHANCELLOR —To the Sectional Indexes, you mean?—Yes. Then there may be liabilities to transfer occasionally in the Consolidated Current Indexes which might throw difficulties in the way of the unskilled outside searcher

1366. Dr. LONGFIELD —In the Sectional Indexes you propose there would be arrangement by two letters of the surnames?—Yes, the two first

1367. That is Armitage and Alexander would not be found in the one section?—No; but Armitage, Arbuthnot, Ardill, Archer, &c, would

1368 The VICE-CHANCELLOR —Are all the Sectional Indexes now in the office alphabetical to the second letter?—Yes, and no more.

1369. Dr. LONGFIELD.—Have you thought of any means of indexing the Mac's and the O's?—We index under the section "Mc" as well under "Ma." Sometimes we find the same names spelled differently in the body of the deed—owing possibly to the mistake or the fancy of the scrivener—or in the signature, and in that case the names are indexed in both forms.

1370. Suppose "Mac" now spelled in the abridged form, would "MacDonnell" be before "McDonnell"?—The Mc's, and the Mac's afterwards.

1371. Judge WALSH.—And Macalister would appear in a different form also?—It would be entered under section "Ma" I might mention that great difficulty and trouble arise in the office by reason of the diversity of spelling names by members even of one family, but we register all according to their own idiosyncrasies.

1372. The VICE-CHANCELLOR —Would it be an improvement with reference to these prefixes of "Mac" and "O" to treat them each in the index as one section and then deal with the remainder of the surname—'Hagan, or 'Donnell, as the case might be?—That might facilitate the arrangement of the names, but I don't think it would be any material advantage one way or the other; practically it is done in the Dictionary fudexes

1373 In some indexes which I have seen there is a separate heading for "Mc and Mac," and this prefix is considered as the initial, and the names are indexed under it according to the first and second letters of the name following the "Mc" or "Mac"—would that not be an improvement on the system of having all the Mac's and Mc's arranged together?—That is in the Sectional Indexes?

1374. Yes?—It might be an improvement, but I can't say it would be a material advantage This is the Day Book from which both indexes are made (*Day Book produced*)

1376. Mr. MADDEN.—There are two indexes made now from the same materials—one for the public and the other for the official searchers—the Sectional Index for the public, and the Concurrent Index for the office?—We have no authority, I should state, now to make one for the public in the prospective consolidated form

1377 Is there any advantage or object in keeping separate concurrent indexes, except what you mention—one requiring greater care and longer time to search than the other?—No; I am not aware of any advantage beyond what I have mentioned; but there is less official labour required

1378. Would it not be better to make a duplicate of the present Prospective Index for the public—making it quinquennial instead of decennial?—The first draft can never be as perfect as the one made at the end of the five years. The one so made will be a clear copy, omitting transfers, and, perhaps, with some slight rearrangement of names. We are bound now to keep two Quinquennial Books, I suggested to the Treasury to allow me to keep, instead of that, one Quinquennial and one Consolidated Book, and they agreed to that, I have their sanction for it, but they could not sanction my giving a book to the public that was not authorized by Act of Parliament

1379 The VICE-CHANCELLOR —You continued one on the sectional plan, and you have another in the form of what will be ultimately the Consolidated Index?—Precisely

1380 But you object to consolidation by periods of ten years?—Yes.

1381 And say that every consolidation should be by periods of five years?—Quite so

1382. Mr. MADDEN.—We all agree that there should be kept a concurrent Quinquennial Dictionary Index; but do you see any advantage in keeping the older and more imperfect book you are now obliged to keep—the Sectional Index; or could they not be both written up in the more perfect form that you now adopt for official searchers?—The extra labour that would be required is one objection There are others, too, as I have already mentioned.

1383. Would it not be more easy to make a copy of the more perfect index than to construct, with it, the older and more imperfect one?—But if we make a copy out of that, they will both labour under the same blemishes, whatever these may be.

1384. The value of the Sectional Index would be as a check only, then?—It is a check, no doubt. And remember we have to consolidate the concurrent indexes at the end of five years That necessarily removes these from the public very much pending the consolidation, whereas, at present they have the Sectional Indexes. It would involve a large, and, in my opinion, an unnecessary amount of official risk and labour to give the public the advantage of a current Consolidated for a Sectional Index.

1385 The VICE-CHANCELLOR —You stated that for the concurrent period an index constructed on the sectional plan is better than a consolidated index?—Yes, for unskilled persons.

1386 Judge WALSH.—And the Sectional Index is prepared more rapidly?—Yes, but we apply additional labour to keep the other book up with it.

1387. Mr. MADDEN.—Would not the mere copying out of the more perfect index be less expensive than the preparation of a separate index altogether?—The Indexes are made in bound books, not in detached leaves, and there would be a difficulty in employing more hands to copy—in fact, if that course were followed, it would be all behindhand.

1388. You can't spare it to be copied?—No; it must always be up to the latest date.

1389. The VICE-CHANCELLOR.—I presume that both the Sectional Index and the Consolidated Index are

posted separately from the Day Book?—Both from the Day Book, and not one from the other.

1390. Mr. MADDEN.—But which is more rapidly completed?—If we were to have a second copy of this, or a duplicate rather, it should be done from the Day Book, and not from the Index itself.

1391. Does it take substantially longer to prepare the one than the other—you say they are *both* written up with forty-eight hours, therefore, it seems to take not longer to form your concurrent Quinquennial Index as your Sectional Index?—We tell off a certain number of hands for the compilation of both the Sectional and Consolidated Indexes, and we can sometimes apply them to other work in addition, because they will not always keep the two clerks in full occupation The Prospective Consolidated Index takes more time and attention than the other

1392. So that it must be more troublesome of preparation?—Yes. Then the Prospective Consolidated Index should be an original book, and making a second original book of that kind must be more expensive—require more hands—than the production with it of a Sectional Index.

1393. And you say the Sectional Indexes are better for the public?—Yes; they are thought much more simple and safe for the outside searchers

1394. Mr. FINDLATER.—In compiling these Sectional and Consolidated Indexes, are two clerks employed on each?—Yes—two enter, two check. Every entry in both is checked, but there is necessarily more care required and more slowness in the operation of entering and checking in the Consolidated than in the more simple Sectional Indexes

1395. Could you not put three clerks on the former so as to make a duplicate copy concurrently?—It would be no use, except perhaps, for entries, and then the entries would be far in advance of the comparison or checking

1396. The VICE-CHANCELLOR.—Would you approve of this—that the Decennial Consolidated Index of Lands should be discontinued?—From the passing of the Act in '32 down to the present time we found it wholly impossible and absolutely unnecessary to consolidate the Lands Indexes. They are all Quinquennial Indexes in alphabetical order.

1397. Does the Act provide that they should be consolidated?—Yes, but it was never done, and on our recommendation the Treasury allowed it to be abandoned.

1398. Do you approve of this—that a Quinquennial Prospective Index of names, in dictionary order of surnames only, be kept, as at present?—Certainly.

1399. And that these be consolidated at the end of every five years in double dictionary order of surname and christian name?—I do; and that would be a great improvement on the present system—no doubt of it.

1400. Mr. LANE, Q.C. (Secretary).—These (produced) are sheets of the Day Book, probably if you explained these double marks in red ink opposite each name it would show how the indexes are made up?—The marks referred to indicate that the names have been entered and checked on both the Names' Indexes.

1401. The VICE-CHANCELLOR.—(Specimen sheet of Abstract Book handed to witness.) At present, Mr. Dwyer, there is a column in the Abstract Book for the name of the instrument, and I believe there is a separate column for the nature of the instrument?—There is.

1402. Is there any use in keeping up these two descriptions, do you think?—Not the slightest

1403. And which would you discontinue?—The name of the instrument I think I suggested that before. It is quite an unnecessary form

1404. Do you see any practical objection to this proposition—that instruments not appearing on the face of them to relate to lands or charges on lands should not be received in registration?—That is to exclude personal deeds?

1405. Yes?—When I came there, first of all, I was surprised to find that they were received, but on examining them, I discovered that there was some element of realty dealt with in many of the cases, and that though the primary object of the deeds was mainly personal—dealing with insurance or stock, and things of that kind—we could not well exclude some of them, because there was a house, perhaps, or premises assigned with the trade, or some element of realty or landed interest dealt with, that necessitated the reception of many of the deeds, and would necessitate the reception of many of them under any circumstances.

1406. But do you not, in fact, now register deeds of pure personalty?—We do

1407. Do you think it desirable to continue to do so?—I should think not—not purely personal deeds.

1408. What would be your opinion of the practical working of this—that instead of the memorial a full copy of the assurance registered should be lodged and compared in the Registry Office, and in addition that a short abstract on a prescribed form should be lodged for the purpose of preparing the indexes from—that for the purpose of registration merely a short abstract should be brought in, stating the statutory requirements, as you now have them, in the memorial; that that should be the only document for registration, but that in addition, for the purpose of safe custody and reference, there should be brought in a copy of the original deed, which copy should be kept there?—Would that be prepared in the office, and how certified?

1409. How would this work—to let the registry itself proceed merely upon the abstract, so that the registration would not be delayed for any comparison, but that the original deed when registered, and the copy brought in, should be then passed on to the comparing clerks, and that your department should compare one with the other, and ascertain that the copy was a correct one?—The deed should be detained until that process was gone through.

1410. Yes?—It would involve the holding of the deed for perhaps five or six months, I think, and that is one of the complaints urged against the Scotch system, that they were kept in the office so long; then having to copy the deed they have a large staff of scriveners for the purpose, and the Deed is kept until the copy is made.

1411. Mr. MADDEN.—They copy it in the office?—Yes; and probably if a copy was lodged with the original for comparison, the process would be a shorter one, but suppose that upon comparison the copy is not found to be a correct transcript of the deed, the registry is completed—would the deed be registered, or what would be the effect of that upon the registry already effected?

1412. The VICE-CHANCELLOR.—None, provided that the abstract handed in for registration is correct. That has to be compared in the first instance Would there be any practical difficulty, do you think, in the way of carrying out that system?—It being understood that comparison was not at all to precede the registry?

1413. Yes?—Well, the only objection I see to it is the amount of official labour it would require. It is a question of expense Then, again, I suppose if it were adopted the Act would make the copy in the office legal evidence of the deed, and there would be the objection that it was not executed.

1414. We did not ask that yet?—The only objection that I see, then, is the objection of expense, and also the requirement of the additional space it would involve for the custody of these enlarged records.

1415. Do you think that if copies of deeds were brought in, in a prescribed shape, that the bulk would be very much greater, or that very much more space would be required?—Certainly, and I should add this, that it would entail great expense in the copying of these documents afterwards for the public. There would first be the increased expense in the office for transcription, and then when we got a requisition asking for an attested copy of the deed, we would have to make that out, and it would be three or four times the length of the present memorial, which would

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involve additional expense to the public each time a copy was required

1416. Judge WALSH.—But the public will not ask for a copy of the deed as often as they now ask for the memorial?—Persons would insist on having access to the copy of the deed quite as frequently as they now do to the memorial. The necessity for resort to the one as to the other for the purposes of information, or evidence, would be the same.

1417. The VICE-CHANCELLOR.—We are aware that it is a common practice now in preparing memorials to stop after the habendum, and say, to hold upon the trusts or to the uses or for the purposes in the said deed mentioned?—Yes; and I can call your attention here to a very remarkable instance where there was suppression in the memorial of a vital provision in the deed, and where we succeeded in correcting it, because I caught the matter quite accidentally. The deed was one of assignment for love and affection by a father to his son, of a large property in the south of Ireland, something like £7,000 a year, and the deed was a very long one—six or seven skins—and at the end contained a power of revocation which was never referred to in the memorial, and which power of revocation was afterwards exercised by will. That always struck me as strong evidence of the necessity of having the full deed in the office for the purpose of meeting such a case as that

1418. Dr. LONGFIELD.—That is if the memorial is to be made any evidence?—Yes; but consistently with a perfect memorial there may be suppression of a vital provision in the deed.

1419. The VICE-CHANCELLOR.—You mean a memorial prepared for registration?—Yes; as regards the statutable requirements. Save on account of the expense I see no objection to the lodgment of a copy of the deed with subsequent comparison in the office, but the expense would be very considerable—far in excess of what I could state here with the hope of its being credited.

1420. At present your practice is to transcribe every memorial into the books?—Yes.

1421. And I believe these transcripts are what are referred to for practical purposes?—Yes

1422. And that it is only when a question arises upon the transcript, that people, as a general rule, require to refer to the original memorial?—Yes.

1423. And if a copy of the deed were brought in and received in the office in the way I suggest, would it be necessary to have a copy of it made for ordinary reference, or could you not dispense with that and refer to the original copy brought in?—Well, great inconvenience would arise from that. The transcripts are largely read at present. The Abstract Books only go back, I should state, not to the beginning of the century, to about 1828, I think. Our searchers never refer to either the transcript or the original memorial unless ambiguity is apparent on the Abstract Books, but the outside public are largely in the habit of reading *in extenso* the transcripts, and if they were to be allowed to resort in each case to the original copy of the deed, in which they now resort to the transcript and the memorial, I think it would be productive of great trouble to them, and also trouble to our officers.

1424. Mr. ARMSTRONG.—And would there not be great facility for alterations—frauds?—Oh, that would be guarded against by the officer; we, for instance, never allow a member of the public to go down into the vaults and see these original memorials, except in the presence of an officer. But of course there would be wanting this element of security, that if at present any alteration was made in the copy of the memorial to which the public have access, it could be checked by reference to the original memorial.

1425. The VICE-CHANCELLOR.—Would it be very inconvenient to do this if the reference was to be, not to a transcript but to a book containing the original copy brought in?—Of the abstract?

1426. No?—We can now give a book of transcripts, and one clerk will prevent any liberties being taken with it, and if it be taken away or destroyed, or tampered with in any way, we have the original memorial too, and can consult it, but in every case that the public require that they should see the original memorial we must send down a clerk with every requisitionist to stand with him while the inspection is being made, be the time long or short.

1427. Do you do that now with reference to the transcripts?—No, they are not originals, I have known three or four of the outside public to be in the vaults reading original memorials over, and over each man we had to put a clerk, and if you increase the number of such requisitions we will have to increase our staff very considerably

1428. Then it would be more convenient course to follow the course pursued at present—of transcribing the copy?—Yes.

1429. In reference to the amount of room, do you think that copies written in prescribed shape and afterwards bound up in volumes would occupy much more space than the bundles or files, as you call them, of memorials now occupy. Would a book of 300 copies of deeds of an average length bound up, occupy much more room than 300 memorials?—It would.

1430. But of course the volumes of transcripts would occupy a great deal more space than the volumes of transcripts of the memorials now do?—Yes, because the deeds are on the average three times as long, and you could not put 300 copies of a deed in the same size of a book as you would put 300 copies of a memorial.

1431. Mr. MADDEN.—This full copy is a new element, and what would correspond with the memorial would be the abstract, would it be feasible to keep an abstract book in which the copies of the abstracts should be written, to allow the general public free access to that book as to the indexes, but to provide that when they wanted the deed, they should be obliged to take out an attested copy, which would do away with the necessity of throwing the whole of these copies open to the public?—That would lead to the same difficulty as now prevails. The public cannot understand the abstracts, in many cases, without referring to, and perhaps taking out full copies of the memorials.

1432. That is when hunting up title?—Yes.

1433. But couldn't they hunt up your title on the index, and if they wanted the deed itself take out an attested copy?—They would not get the same information of the deed from the index or from the abstract that they have now from the memorial, whose recitals generally bring them down to the present time and give a short *resume* of past dealings. I don't think the public would be so satisfied with what you propose.

1434. Everybody would not, but then those who wanted more could get an attested copy?—Yes, but the cost would be large.

1435. Is it not your opinion, Mr. Dwyer, that anybody wanting a copy would gladly pay a larger sum for a full attested copy than they at present pay for the memorial?—Oh, no doubt, if they were without the deed itself.

1436. Dr. LONGFIELD.—Don't you think that fishing for title would be to a large extent prevented by that increased cost?—No doubt; there would not be the same facility for prurient curiosity satisfying itself. But my experience is that there has been very few cases of that kind in our office. Let me add this—at present outside searchers are very much engaged in making searches for the Northern Banks. The Ulster Banks are in the habit of making advances on farms, and they are prepared to make these advances on being told that the farm is held under lease, or that it is on a tenant-right estate; but they want to find whether the farm is free from incumbrance, they telegraph to their agents in Dublin and the result is communicated to them by telegraph in reply. I have been told that a loan that was initiated yesterday between a bank and a farmer is finished to-day, and if you puzzled the searcher ever by preventing his resorting to the

memorial or the deed, it would do injury in that particular direction

1437. Dr. LONGFIELD.—In this case there would be on the search only a blank — no return?—But the return may not be a blank and yet be satisfactory

1438. The VICE-CHANCELLOR.—Do you think there would be any objection to the abstracts from which your index should be made out being prepared by the solicitors themselves instead of in the office—checked in the office but not made out there?—My own impression is that it would multiply the number of cases in which the deed would have to be rejected in consequence of some inaccuracy in the abstract. Say that there are two grantors, or two or more denominations of land, and that the abstract only referred to one We find that a number of mistakes in the simple certificate occur at present in the memorials, and if an abstract was prepared outside of the office it would tend to the multiplication of these mistakes, I think. The abstract is a more technical document than the memorial. It is more analytical in its nature than the memorial, and I am afraid some small petty mistakes would occur if the public were to prepare them outside. If they were to be the foundation of our registration, and if there was some mistake in them, it would run through the whole system Our own clerks are much more expert, and I would leave it with them

1439. Is the abstract at present made out from the memorial?—It is.

1440. Would there be any practical difficulty in making it out from the deed itself?—There would be great delay That is what we have the day-book for—to diminish the labour We might efface the day-book, and make indexes from the memorial itself, but the person making the indexes must consider the memorial well, and the delay that would be thus occasioned is got over by the day-book, which contains an entry of the deeds as they come in, without being put in order. That is done by the index maker, but if you drive him to read all that matter in the deed you would have his mind very much dazed, and render correct entering and comparison most tedious and difficult

1441. Are your abstracts made out in the day-book, or in a separate book called the abstract book?—In a totally separate book

1442. Supposing there was a tabular form provided, to be filled up under distinct headings by the party bringing in the deed for registration, would there be very much difficulty or inconvenience in that memorial or abstract, as you may choose to call it, being prepared by that party instead of in the office?—There would, for it should be treated as a permanent record for the office and the public. The abstracts, as they would come in from country places, for instance, would be very often almost illegible, blurred, dirty, on bad vellum, written with bad ink, and with erasures unmitialled, and could not be so safely consulted as abstracts prepared in the office For instance, the unmitialled erasures I have tried to correct since I went into the office, and I have seen an objection taken to a memorial for a certain name being to it that should not be there. Well, it was taken away, and presented next day with the name erased. We have been in the habit of taking these, and I believe if we now rejected them, we would have to reject more than 15 per cent. of the documents presented for registration. Of course these are all mechanical objections; but when they accumulate they are, I think, vital objections to the preparation of abstracts by unskilled hands. We should transcribe them afterwards; and the abstract we make now, followed by immediate comparison, is not attended with more expense, and is far better than the other system of preparing these outside.

1443. But do you think that there would be really much more delay in taking out the statutory requirements from the deed itself than from the memorial, according to the way memorials are now prepared?—Memorials, though very bad in non-essentials, including matter that need not be there, and leaving out matter that it is very well the deeds should contain—they give us the particulars we require for registration satisfactorily enough—the names of the parties, the considerations, the names of the lands, &c. All the essential requirements are properly enough given, generally speaking

1444. But could not that be made easier by bringing in the abstract in a tabular, say printed form?—There would be a difficulty about printed forms, because in different parts of the country they probably would not be found when wanted; and deeds are very often prepared in a hurry.

1445. But if this once became a requisite for registration, would it not be the interest of persons in the country to keep a stock of them?—Well, the London solicitors have been considering this very question. They have offices in London and Manchester and also in the English counties. I have been reading their evidence given before the present Committee of the House of Lords, and they object to printing for this reason: They say they meet their clients on a market day; for instance, one goes down to Nottinghamshire and brings down a clerk with him, and meets the client, and these simple deeds are prepared and executed there on the same day, and they say that if you were to oblige these documents to be printed, either beforehand or on the occasion, great difficulty and delay would arise, and, in point of fact, there are not facilities for printing and regulating the size of these memorials or deeds. Great difficulties would arise, I think, in the working on printed documents—a difficulty which, in my opinion, would exceed the convenience which would arise from having them in print

1446. Mr. ARMSTRONG.—Suppose that, upon comparison with the deed, there was one word in the abstract found to be wrong, or something of that kind, could that not be read by the clerk, say on oath, and strike his pen through it, and make the alteration? Would the abstract be signed by the solicitor?—Would there be any certificate of correctness of the abstract? If there is such a thing we could not alter it.

1447. You might surely alter if they found incorrect any small matter of that kind?—That would vitiate the certificate at foot?

1448. The execution of the deed would be verified, but it might not be so necessary to verify the correctness of the abstract of the deed It might be left to your office to correct the abstract against the deed?—That would be *making* abstracts, not comparing them with the deed

1449. Mr. FINDLATER.—At present you return the memorial found to be inaccurate in any way to the solicitor?—Yes.

1450. And why not, if there is an error in the abstract, return it too?—That is what we do now, because it would be taking a liberty with the original I quite understand your meaning; and even now we don't correct the slightest error ourselves.

1451. Mr. ARMSTRONG.—That is because the entire memorial is a verified document upon oath?—I am afraid that if you have to make an unverified document the foundation of your registration, your superstructure would be a very unsubstantial one

1452. Dr. LONGFIELD.—How many clerks are now employed making out abstracts?—We have one clerk always engaged in compiling abstracts, frequently assisted by another, and we have two clerks engaged always on the comparison If there be a hundred deeds in the office, we put two clerks on the abstracts, but one clerk, we estimate, is able to write out forty ordinary abstracts a day, and they are done in a careful, neat handwriting. The number of errors found in comparison is very small, indeed. The clearness of the abstracts so prepared, and the facilities for reading them, are very great, indeed.

1453. The VICE-CHANCELLOR.—But you are aware that the object in introducing this—requiring that an

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abstract should be brought in with the deed in addition to a copy—is to prevent the delay that would be created by comparing the copy and the original?—I am quite aware

1454 Do you think if there were printed or written forms of abstract, confined to the bare statutable requirements, brought in by the party registering, that there would be a greater number of mistakes than are now found in the present construction of memorials?—Any error in the abstract would be fatal.

1455 Which would require your rejecting it?—And we should also reject the deed.

1456. Yes?—And of course if there was a mistake of a similarly fatal kind in a memorial it should be returned also, but at the same time, from my experience of the way memorials are prepared, the materials for a correct abstract are to be found in them It is the *classification* of these materials in an abstract outside the office that would constitute the difficulty

1457 But eliminating all non-essentials and limiting the abstract to the bare statutable requirements, would there be more mistakes?—I think there would be frequent errors

1458 Instead of calling this an abstract, suppose we said that a memorial should be brought in, not going into the recitals or any of the other statements universally entered into in present memorials, but confined merely to the parties' names, the consideration, and the nature of the instrument, the date, and the name of the lands, would there be more errors, or would there be a practicable basis to work upon for registration?—I consider that the abstract proposed is a more technical document than the other—therefore more liable to error.

1459 Than what other?—Than the memorial. If memorials are brought in containing the statutable requirements, we may manipulate them by taking out what we want for our abstract, but if you try to bring in abstracts made outside, they must be taken *quantum valeant*, and adopted as the basis of the Registry

1460 Supposing you were to say a memorial is still to be brought in, call it by that or any other name ——?— Pardon me until I explain. Now, a memorial is brought in with the certificate, saying that there are four grantors. We find there are six We don't reject it, but we say, "Take it to the Stamp Distributor and change it, and pay the proper fee stamp." In like manner the certificate states eight denominations instead of ten You must increase the fee stamp again. Mistakes of that kind are made on the certificate, and would we on errors of that kind reject the proposed new abstract?

1461. Discontinue using the word "abstract" for a moment, and supposing that the present form of memorial were altered by strictly limiting memorials to the statutory requirements, without more, and that you should then work from that as you do now from the memorial, would not that in your opinion be a much simpler basis for registration?—I think it would. The shorter a document is the better, provided that it contains correctly all that we require as the basis of registration If you have an abstract to be compared, as now, with the deed, and reject it because of discrepancies in statutable points, I see no objection

1462 And if we call this a memorial instead of an abstract, and provide that with it should be brought in a full copy of the deed, to be lodged for reference and safe custody, would it not be practicable?—Yes, if accompanied by the deed, but the abstract will never *per se* have the same force or be of the same value as the memorial, and we should be at liberty to reject it when there was proper occasion.

1463. Yes; reject it whenever there is a variance in the essentials between the memorial or abstract and the deed?—I see no objection whatever to that—none in the world. I think, on the contrary, it would be an improvement, if accompanied by a full copy of the deed.

1464 Judge WALSH.—Would it facilitate also the making of searches?—No; because they are now made from the abstract compiled by us, which would be more perfect than any that could be brought in. The abstract, without the deed, would be altogether an insufficient memorandum of the contents of the deed.

1465. Not for registration?—No.

1466. Mr. MADDEN.—I understand you to think it would be desirable that the officer should, if the abstract is imperfect, reject it, and not mend it?—Yes.

1467. What is your reason for that? Take this case You compare the present memorial with the deed as to statutory requirements You would also compare the new memorial or abstract with the deed as to statutory requirements. Supposing you found that the barony or county, as stated in the memorial presented to you, differed from the barony or county stated in the deed, the present practice would be to hand it back to the solicitor, because the memorial is under seal, and treated as a solemn instrument But dealing with this new memorial or abstract, would it not be much simpler for you to make it exactly conformable with the deed, by correcting the error as to the barony or county, or putting in the barony or county, as the case may be?—That would be delaying the admission of the deed to registration, because it will necessitate the reading of the deed fully, and the remodelling, it may be, of the memorial. At present one clerk holds the memorial, another clerk the deed, they read the names of the executing parties, the attesting witnesses, the local situation, if any, named, and the consideration, and so on. That is all; but if you were to make a clerical error, or any other in the memorial or abstract, you would have to read that deed with care from beginning to end.

1468 No You still would compare the statutory portions only?—But the operation, nevertheless, will take time I don't say much time, but more time than the rejection of it upon the discovery of an error now takes, and the multiplication of small losses of time will greatly delay the general despatch of business.

1469 Do you find that any great or substantial proportion of memorials are rejected now for mistakes such as has been referred to?—Oh, yes

1470 Dr LONGFIELD.—Would it not lead to more carelessness, too, on the part of solicitors if the duty was put on you of revising abstracts and memorials, and correcting then the errors, instead of as now rejecting memorials for errors?—Certainly; I think so, and even now receiving documents with erasures, simply because we have been in the habit of receiving them—the number of erasures are continually increasing They would not have been half so numerous if we had set our faces against it at the beginning, and they would say constantly to us, if the duty were thrown on us of revising and correcting, "It was your business to make the document perfect—if there be anything wrong in it, you make it right." For instance, at present names are spelt in four or five different ways, owing to mistakes made by parties outside. They know we will rectify these on our indexes.

1471. Mr. ARMSTRONG.—Don't you think the registration would be very much facilitated if there was a uniform stamp upon memorials—supposing £1 or 15*s.*, or whatever sum was appointed, and that the stamp duty should not be measured by the number of grantors or denominations or any other considerations?—You mean an *ad valorem* fee?

1472. Yes?—What would be the practical effect of that?

1473 Would it not take away the assessing duty, and all the trouble consequent on it now devolving on your officers?—No doubt it would diminish our labour somewhat There is a duty thrown on us that is not thrown on any other registry in the kingdom—the assessing general stamp duty. We have objected to as many as four or five hundred deeds in the year, because of their being insufficiently stamped.

1474 Dr LONGFIELD.—And do you get £1 for making discovery of errors of that kind, a reward given to registrars in the Landed Estates Court?—Oh, it would not make me more careful if I did.

1475. Judge WALSH.—But if there is to be an *ad valorem* stamp to be put on it, who would determine the amount of it?—I should say the Stamp Office.

1476. Mr ARMSTRONG.—But if you adopted a uniform stamp duty, would that involve any trouble?—No

1477. Mr. LANE, Q.C. (Secretary).—Is this duty in connexion with the stamps put upon you by Act of Parliament?—Not by the Registry Acts, but by the Stamp Act

1478. The VICE-CHANCELLOR.—Do you think it would be safe to substitute for the present system the certificate of a solicitor that the deed was properly stamped?—I think it ought; or the certificate of the officer of the Stamp Office below. We find, however, that they make mistakes there by under computing. I think from two to four we could register twice the number of deeds we do now if this duty was taken off us. It is not the duty of a registry at all

1479. Mr. FINDLATER.—I am quite sure, from what I have observed myself, that it would be a great facility to you to be rid of that duty?—Oh, a great facility; the investigation as to stamps occupies a deal of time.

1480. The VICE-CHANCELLOR.—What do you think of this proposal—that affidavits of perfection should no longer be taken by the Registrar or Assistant Registrar, but that same might be taken before any other person authorized to take affidavits? Whatever would facilitate the swearing of affidavits would be an advantage, but in some cases the public will be convenienced by having the affidavits made in the office.

1481. There would be no practical inconvenience in the party taking the affidavit before one of the Commissioners of the High Court of Justice for taking affidavits?—No; in most cases, on the contrary, it would be a great convenience to the public and to the office.

1482. Do you think it desirable that the affidavits of perfection should be continued?—I think it is—to have some security for genuineness. It will not prevent fraud, but it is, to some extent, a security. We had a case of forgery of a deed and memorial registered in the office some time since, and the man is now undergoing punishment for it, but if people were to get off scot free, and if there was not this security, whatever it be, the danger of these things being tampered with would be greater.

1483. Would you approve of this arrangement being made—that affidavits of perfection should be made by one of the attesting witnesses, unless it be shown by affidavit to the satisfaction of the Registrar that by reason of death, incapacity, refusal, absence from Ireland, or other sufficient cause, such an affidavit cannot reasonably be procured, in which case the instrument might be admitted to registration on proof of the signatures of one or more of the grantors by some person acquainted with the handwriting, and showing sufficiently by the affidavit his means of knowledge?—Yes; that would be a great improvement, I think. At present very often the attorney's clerk is an attesting witness, and if he leaves that office he may refuse to make the necessary affidavit. Many hitches of that kind may occur now.

1484. Do you think it would be a desirable change to make that no instruments should be admitted to registration except they stated the barony and county, or the city or town and parish in which the lands dealt with are situated?—I would be glad if we had the locality always stated, but my own view is that such an arrangement would exclude from registration a number of deeds. It would be all very well in the cases of deeds prepared at home, but we should also provide for those prepared in England, the Colonies, and foreign places

1485. What do you think of this plan—to allow registration to be effected of a deed that purported to deal with real property, but which did not specify, as the statute requires, the local situation, provided that the memorial or abstract brought in with it to the office did give the locality, and that that document was certified in a satisfactory manner, particularly as to the statement supplying the statutory defects in the deed?—I don't quite understand the question.

1486. Supposing that by deed says A. B. grants to C. D. all his lands in Ireland, without specifying the barony or county in which they are situated, would it be convenient to provide that it should be received and registered, provided that by a memorial or other document brought in with the deed and duly authenticated the names of the lands and the barony and county were supplied?—That would be the only difficulty—the identification. If that could be satisfactorily done it would be an improvement, and it would enable us to make our books right. The only danger would be, that lands covered by the general recital in the deed might be omitted by the more particular statements in the memorial, or that more lands might be included in the memorial than were dealt with in the deed. The case to which I have already referred, that of Lord Ventry, was one in which the grantor dealt with all his estates and property in the county of Kerry, and the proposal is that the memorial should explain what he meant by that and supply the particulars. But if that memorial was not executed by himself—and in some cases they are made by the grantees—the operation of the deed might be extended or limited. Again, it might operate on after acquired property.

1487. "That when an instrument brought to the office for registration does not state the barony and county, or the city or town and parish (as the case may be) in which the premises thereby affected are respectively situate"—that is a defect very common, I believe?—Oh, not uncommon.

1488. "A certificate shall be indorsed on the instrument, and a duplicate thereof shall be lodged in the Registry of Deeds Office, signed by the party on whose part application for registration is made, or his solicitor, supplying such defect; and in like manner when the townland names, as used in the Ordnance Survey, are not stated in the instrument, or any denominations other than such townland names are contained therein, the Ordnance Survey names shall be stated in a like certificate, and that when any such certificate shall be used, an additional fee shall be charged for registration"?—I think that would meet the other evil I mentioned and, in my opinion, supply a want. I think there is some warrant in a statute of George IV. that allowed the information not given by the deed to be supplied by an affidavit accompanying the memorial.

1489. Judge WALSH.—But would such a provision remedy the evil you mentioned in connexion with Lord Ventry's case?—If the deed purported to deal with *all* the grantor's property in Ireland, or in a certain county, the particulars of that property might be got from persons having a knowledge of it. But would that certificate be read in a court of justice as explaining or confining the operation of the deed?

1490. The VICE-CHANCELLOR.—No; it is only for registration. The rule suggested is this—that no deed should be admitted to registration except the materials necessary for the registration were given by the deed itself, or by some authenticated document accompanying it, and that no instrument should be registered against any lands except those named in the deed or in the document brought in with the deed?—Cotemporaneously?

1491. Yes—cotemporaneously?—Yes; that would enable us to index the lands

1492. And would it not be a very great advantage to get rid of the General Acts Book and the No Barony Book?—Yes, they are all great impediments to the expediting of searches—the searching of these extraneous indexes, so to speak. There is great difficulty, too, in identifying them with the acts; and the general public very seldom use those books—they don't understand them.

1493. Suppose I direct a search for twenty years

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for all acts by John Smith, to affect the lands of Blackacre—how would that be carried out?—That would be made upon the Names Index and upon the Lands Index.

1494 Both?—Yes; and accordingly the general form of requisition is, "I require this search to be made only on the Names Index."

1495. And unless that is stated on the face of the requisition, it would be made on both Names and Lands?—Yes; that is what we call an unconfined search.

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MR. MICHAEL F. DWYER, recalled, said—

1496. I have been considering this matter of the proposed abstract since I was favoured with this paper (resolutions passed by the Commissioners for the purpose of the draft report), and would wish to add to my former evidence The abstract which it is proposed to substitute for the present memorial is the initial step in the contemplated change in our system of registration It is to be the permanent record and warrant for the entries from the first to the last in all the books of the office, just as the memorial now is the foundation of all the entries The abstract is, in a word, to take the place of the memorial for the purposes of the Registry, and from that document we are to take, for good or for evil, right or wrong, all the information that is to be scattered through the Day Book, the Names Index, the Abstract Book, and the Lands Index, and I confess, after considering the matter carefully, and after consulting with the Assistant Registrars and the Chief Clerk, that I apprehend great difficulty to the department and great embarrassment to the public from the adoption of the abstract, at least in the form proposed, and the particular in which I apprehend embarrassment most is chiefly as regards the column for grantors. In the case of an ordinary deed, a lease from landlord to tenant, there can be no difficulty in ascertaining who is the grantor and who the grantee, the most ignorant attorney's clerk can determine that, and the most unskilled of our juniors is more than competent for the revision of such an abstract, but I constantly meet deeds which I have to read more than once to ascertain and determine the action of the parties to the instrument, the different lands and interests dealt with before determining who should be considered grantors and who grantees That is not an exceptional element in the general business of the department Take the common case of the assignment of a lease by the tenant to a third party, a mortgagee or a purchaser—and the number of these is daily increasing—many of the leases now made, indeed most of them, contain provisions against alienation The tenant comes to assign his interest and he obtains the consent of his landlord, which consent is mentioned sometimes in the body of the deed and sometimes by an indorsement to the effect that "A B grants to the assignee with the consent of the landlord as testified by these presents," and in such a case where a party, though a stranger to the deed, joins in it by giving that consent we treat him as a grantor You are aware that at present the solicitors have to certify the number of grantors upon the back of the memorial, but invariably they omit to notice such a thing as that, the concurrence of the landlord in an assignment made of a lease which itself contains a covenant against alienation. They treat only the tenant as the grantor, though we regard the landlord as a more important actor than even the tenant himself. In dealing with the proposed new abstract, which is to contain a column for the names of grantors, in the event of omissions of that kind the deed would have to be rejected

1497. MR. LANE, Q.C (Secretary).—Under the present system have not the solicitors to certify the number of grantors?—Yes And they constantly omit from the certificate grantors in such cases as I refer to, but never with a fraudulent purpose or with a view to avoid the fees of the office, but simply from want of knowledge of the effect of certain persons joining in it, they leave him out because they think he is not a grantor of the estate or the owner of the interest dealt with though his consent is necessary to the legal force and efficacy of the transaction The men we put upon the work of comparison and compilation of abstracts are very skilled clerks—men who have received rulings over and over again from a succession of Registrars and who could not be at all compared with the outside public by whom it is proposed the new abstracts should be prepared I myself devote a large share of my time and much attention to the consideration of questions arising in the preparation of such precis. Take another instance, that of a deed—and this is a common ordinary case, four or five occur in the course of a day, when registering 80 or 90 instruments—a deed of mortgage is brought in for registration, a mortgage made by the proprietor of a considerable estate and for a considerable sum of money, that deed is executed or purports to be made between the owner in possession of the property, between an annuitant on the property under his father's marriage settlement with a view to the mother's jointure, between the trustees of that marriage settlement in whom the jointure is vested for her use, between the younger children, several of whom have charges on the lands under a provision for younger children, and between the trustees of the marriage settlements of these children, their husbands, assignees, or others interested, we have then to determine which or how many of those parties representing and acting on these various interests are to be entered on the books, and how many can with propriety be left off. Some of these interests don't deal with the whole lands, while the whole are affected by others, sub-interests are created, and the choice and selection of the different parties to be made grantors, or omitted from that category, requires a thorough knowledge of the instrument and cannot be determined on a cursory reading of it such as the clerk bestows upon the statements in a memorial when reading it against the deed to see that the one is in conformity with the other in a few statutory particulars. It is a different thing altogether that is required for the determining of who should be, and who should not be, entered as grantors, and if that is left to the ordinary run of solicitors' clerks, innumerable mistakes every day will be the result in all complicated deeds, while if on the contrary the departmental officials are to take upon themselves the revision and correction of these documents, it will delay to an inconceivable extent the admission of deeds to registration. The increased preliminary work would and must greatly delay the ordinary current work of admitting the deeds to registration. Again, if the abstract is to be made the foundation of the entries in our books, we could not go outside of it, and if the names of grantors were left off we could not amend the document in that respect, because solicitors would ask, "Where is your warrant for doing that?" At present if we return an act in certain cases the solicitor will ask, "How comes this here?" "Oh!" we reply, "that is from the memorial." He says, "No; I know the contents of the memorial as well as you, and you should not return that as an act—he did not act on the lands," and I have frequently discussions with such gentlemen, and with difficulty show them that we are right. They fail to see that in such a case as I have alluded to the landlord who consents to an assignment of the tenant's interest, notwithstanding a provision in his lease against alienation, is a grantor, and that we were right in making the entry as such in the first instance, and abiding by it afterwards.

1498. The VICE-CHANCELLOR.—To which proposal of the Commissioners do you apply yourself in these observations?—To that dealing with the substitution of an abstract for the present form of memorial.

1499. Kindly point to the proposal you mean?—To the proposal that would require the abstract to be prepared in a tabular form with one column for the names of the grantors and another for grantees, the witnesses' names to the deed, and all the other particulars which must be in the memorial in order to comply with the requirements of the Statute. If we are to accept imperfect abstracts as regards the names of grantors, we must leave the names omitted off the Registry, the Names Index, and the Lands Index, and if we are to revise and correct the abstracts in that particular it will greatly delay the registration.

1500. I would just like to know what suggestion upon the part of the Commissioners gives rise to these observations—"In addition a short abstract in a prescribed form shall be lodged for the purpose of the preparation of the indexes"—is that what you refer to?—Yes; and that is to contain, in a tabular form, among other things the names of the grantors.

1501. But where do you find that in our suggestions?—That is the form I have seen, and if it is to afford the materials for a Names Index, that must be included.

1502. Then perhaps in your observations you have gone outside these resolutions of the Commissioners?—Yes, to this extent, that when the word abstract was mentioned, I presumed it was the form of abstract frequently shown to me in connexion with this proposition of substituting an abstract for the present form of memorial.

1503. Supposing that, as we were suggesting last day, we were to discontinue the word "abstract" in reference to this subject and speak of it as a memorial, and treat it as a memorial that must of a necessity be confined to the statements of a statutable requisition for registration, would the same difficulties arise in that case?—I think the same difficulties would not necessarily arise. But upon the abstract, if it is to be much shorter than the present memorial in respect to statutable requirements, it might throw a difficulty in the way of determining this question of the grantors. Of course, if the memorial—call it a memorial in place of an abstract, if you will—contains, without digestion or arrangement, the materials for our abstract book and for our indexes, then of course it would be quite adequate; and it might contain all those particulars without being one-third or one-fourth of the length of the present memorial; but if it takes upon itself the function of determining the position in which the parties are to stand in relation to each other in the registry books it would—or might be, which is just as bad—entirely wrong.

1504. Is it not absolutely necessary at present that, for the purpose of constructing your indexes, a distinction should be made between grantors and grantees?—Yes; and what I say is that that duty cannot be safely entrusted to ordinary compilers outside the office, it should be left to us, as at present.

1505. At present the statutable requirements of a memorial are these: the date of the instrument, the names and additions of all the parties, the names of the attesting witnesses, the names and local situation of the lands dealt with?—Yes.

1506. And would there be any objection whatever to the memorial being confined to those?—Not the slightest; but they should be stated, I think, for safety sake, verbatim from the deed, and the compilation of these materials should not be left to an outsider, because he might mistake a grantor for a grantee, and that representation would be binding upon us.

1507. But supposing a memorial was brought in to you merely confined to these statutable requirements—which was the form of memorial contemplated by the Act of Anne—how would you be able to ascertain for the purpose of indexing what parties ought to be entered as grantors or grantees?—By reading over the document carefully.

1508. How, if it was confined to the mere statutable requirements?—My suggestion is to give an exact memorial from the deed of the operative part of the instrument.

1509. But, for the present, suppose that a document purporting to be a memorial confined strictly to the statutable requirements is brought in with the original deed, would there be any greater difficulty in checking the short memorial against the deed than there is now in checking the long memorial?—If you will allow me, I will just show you the distinction. The deed is not now at all present when the Abstract Book is made up—that is constructed exclusively from the memorial, and the memorial in its present form, with its recitals, and the prefatory explanation of the intention and object of the parties, assists us to discover in what relation they stand to the deed and to each other.

1510. Would not that be easily discovered by giving you a copy of the deed?—If the deed is to be retained in the office until the Abstract Book is made out, that could be done of course; but that would mean detaining the deed for a fortnight, for the Abstract Book is generally a fortnight or more behind.

1511. Mr. MADDEN.—Could you not make it out from the copy deed left with you?—That would amount to superseding the abstract itself, because we can extract from the verified copies of deeds all the materials ourselves, as well as from an abstract, and it would be the much safer course of the two for us, although much more tedious. We would not then have to work on the production of an attorney's clerk, who might say of a certain deed A B and C D are the grantors, but could determine from the instrument for ourselves as to whether E F and G H should not also be included in that category instead of as grantees. It must be remembered that this is, as I have remarked, the initial step—the foundation on which all our books are made up.

1512. Mr. ARMSTRONG.—I think I can explain a good deal of Mr. Dwyer's remarks. When the Treasury Committee was sitting, our suggestion was that with the memorial there should be brought in a memorandum for the registry, and that is the form, I think, that is now running in Mr. Dwyer's mind?—More or less, certainly.

1513. The intention was that that memorandum should accompany the memorial?—Yes; but I have also seen other proposed forms of abstract instead of the memorial.

1514. Judge WALSH.—The change proposed here is simply this—that the abstract, in place of the present form of memorial, should be confined to the bare statutable requirements, and that with it a copy of the deed should be lodged, so that you will have that to look to when determining who are the grantors, and as soon as that has been done the deed can be registered; but it must remain with you for some time longer to be compared?—I was under the impression that the abstract was to contain in a definitive form a statement of the grantors and grantees, and that we were to enter these on our indexes in that order. If we were to do that, we would be recording from a document prepared outside by, probably, an incompetent hand.

1515. The VICE-CHANCELLOR.—I do not yet see where you found that in any of the suggestions by the Commissioners?—When the resolution said that we should only register from the abstract as to the lands described therein, I read it to include also the grantors named therein, and that we must make up our books from those materials alone; but if we are to be at liberty to refer also to the deed itself, our hands are free in the compilation of our own abstract. As I have said, however, if we were bound by the abstract lodged concurrently with the deed, the result might be far from satisfactory.

1516. If you were to be protected by that, and not bound to register it against anything but what was named in the abstract, would that affect your opinion?—That would be the right and logical conclusion following on the adoption of such a course, certainly.

1517. Do you think there would be any serious

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objection to that?—None from an office point of view, but from a public point of view it might be said that grantors would be left off through ignorance.

1518. But in such a case the parties to suffer would be the parties who made the mistake?—Yes, and that certainly would relieve the office from all difficulty.

1519. There was another view which you were suggesting which I should like to ask you about. Supposing the deed and a copy of it were brought in without any other document, either memorial or abstract, and handed to you or your assistants for the purpose of registration, would it be attended with much practical inconvenience to make your abstract not from a memorial, as at present, but from the deed itself or the copy of it?—There would be no insuperable difficulty to that, and the only objection I can see is that the process would be slower; for, of course, an abstract can be more rapidly constructed from a well-drawn precis of the deed containing the essential particulars, which are few in number, than from the instrument itself.

1520. Do you rely on the present memorial for that purpose?—Well, it contains all the necessary information in less space than the deed itself does.

1521. But isn't it the practice of the office that the first step taken for registration is a comparison of the memorial with the deed as to the statutory requirements?—It is.

1522. When once you ascertain that the two accurately correspond, you discard the deed as far as the work of registration is concerned, and work upon the memorial alone?—Yes.

1523. And if you, on the other hand, find a variance in any of those particulars, the practice is to reject the memorial, hand the documents back to the solicitor, and refuse registration till the mistake is set right?—Yes.

1524. Well, supposing that the memorial were discarded altogether, and that the deed itself were brought up to you and registered, and then handed to the parties making the indexes, do you think that the delay would amount to a practical inconvenience in the construction of your Day Book?—It would delay matters to a certain extent, but not to a very material degree; and if we could get the deed and the copy deed compared before admitting the deed to registration, which would involve serious delay, I would then be quite content to rest the subsequent entries upon the verified copy.

1525. Do you think that the delay of comparison in the office would be a serious inconvenience?—I think it would take, at the least, three times the length of the time now occupied in comparing the memorials now brought in against the deeds. I give that as an average.

1526. Suppose that instead of that the original deed were retained by you until your abstract was constructed, would that be productive of much delay?—About the same delay as would arise in making the entries from a verified copy, but that would not be a very material delay.

1527. How long would the deed in such a case require to be kept in the office?—Until the abstract is made.

1528. And how long would that take?—The average time now is between a fortnight and three weeks; but of course the deed would require to be retained also for the purpose of comparison with the copy lodged.

1529. According to the present practice of the office, the Day Book is made out very much sooner than the Abstract Book?—Much sooner—by about a fortnight or so.

1530. And your Prospective Names Index can be constructed from the Day Book without having recourse to the Abstract Book at all?—Yes.

1531. For what purpose is the abstract taken out, then?—For the Lands Index primarily, but it has other valuable uses.

1532. Consequently, what I have been asking you about will not involve very much delay in constructing your Day Book?—Not very much; and it would not lead to any material delay anywhere.

1533. Which of the two systems would you recommend; the one I have just been speaking of—bringing in the deed without a memorial, and leaving it for the purpose of preparing the abstracts from it direct, or the bringing in an abstract containing the mere statutable requirements, on the responsibility of the party lodging the deed for registration, and dealing only with that abstract, without any further liability on the part of the office?—I would prefer the latter very much, but from an office point of view only.

1534. And is the only objection you see to the latter course that it would render mistakes probably more frequent, in consequence of outsiders not having sufficient knowledge to prepare the abstract?—That is the only ground—that there would, perhaps, not be the same confidence in the accuracy of the registry that now exists, when that vital document is prepared by less competent parties. I have sixty clerks in the department now, and of these there are not more than a dozen that I would conceive competent to make an abstract in all cases. What, then, must be the character of abstracts prepared by ordinary attorneys' clerks?

1535. It would follow, however, that if this abstract were prepared outside, all that skilled labour now required in the department would be relieved?—It would, of course.

1536. Mr. MADDEN.—And the registry would be still accurate so far; but the unfortunate man who lodged an imperfect abstract, omitting a certain grantor, would not have his deed registered against that grantor?—Yes; that would be the case.

1537. The registry would still be, as it now is, perfectly correct, but that deed would be an unregistered deed as against that grantor?—It would be correct, starting from that point.

1538. It would never mislead anybody, because that deed, where defectively registered, would never be returned as an act as against the omitted grantor. It would only be registered as against the grantors named in the abstract?—Yes.

1539. The VICE-CHANCELLOR.—And if, on the other hand, the mistake was that grantees were put on as grantors, no mischief would arise except a slight overloading of the Names Index?—Quite so.

1540. Mr. ARMSTRONG.—Have you any suggestions of your own, Mr Dwyer, to offer as to any improved system in respect to this?—Well, the abstract would be a certain facility over the verified copy of a deed in making the entries, for this reason, that the information sought for with a view to the entries would be found in a narrower space, and if there was to be an abstract, what I would suggest is, that it should contain merely the statutable materials of the present memorial, and be no further binding upon the makers of the official abstract. That is to say, if A B and C D were given as grantors in the unofficial abstract, and we found that E F should be also included in that category, we should be able to put that on also in our books. But in the form of abstract I saw there would be no warrant for our doing that.

1541. The VICE-CHANCELLOR.—But would that not be imposing additional responsibility and labour upon the office?—Very much.

1542. Mr. FINDLATER.—How long is it at present before you ascertain that the description of the grantors given in the memorial is correct?—You mean, I suppose, in the certificate? Sometimes not for days after the registration is effected, sometimes not till the abstracts and index are prepared.

1543. And what do you do when you find a variance there?—We communicate with the solicitor's clerk when up on other business. We tell him the mistake made in his certificate as to the number of grantors, or lands, or folios, produce the memorial and require him to go to our Stamp Distributor and get the additional fee affixed.

1544. Could you not do the same thing under the proposed new arrangement?—So far as fees are concerned, probably yes, but not as regards errors in the abstract, because it is then entered, and this arrangement would not admit of that. It is only an intelligent, skilled clerk who will find out variances, and though it turns out that the grantors are found to be incorrectly stated, three weeks after, when all the entries have been made, we can at present set matters right

1545 Mr. ARMSTRONG.—In relation to Landed Estates Court Deeds, am I not right in saying that it is the practice to register them on printed memorials?—Yes

1546. And on those printed memorials being brought in they are put into manuscript again?—Yes.

1547. Could that not be done away with?—Yes. It is absurd The Act requires us to copy every memorial that is brought in, whether in print or not I thought the provision of the statute sufficiently general to admit of a printed duplicate being kept in such cases in place of transcribing, but the Landed Estates Court do not send in a second copy. In ordinary cases we have an original written memorial and our own transcript, but they only give one memorial, whereas if they gave us a second printed memorial we could embody that with our transcripts at once The printed memorial from the Land Judges' Court has to be copied in our books.

1548. Board of Works Deeds and others of a public kind are in the same form?—Yes. Then even if they had given us a duplicate printed memorial they are not of a size and shape that could be conveniently bound up in our Abstract Book, but I would suggest that such printed memorial should be of uniform size, and that we should get a duplicate copy, so that they could be bound up in the future, and not require to be copied as at present.

1549. Mr. MADDEN.—With reference to what you said on the last day as to the preparation of indexes, would there be any other difficulty in having the Concurrent Index afforded to the public prepared in dictionary order as well as that used by the official searchers, except the consideration of expense?—There would be none except this additional difficulty, and it is upon a fact on which I find I was wrong in a statement I made last day as to the Quinquennial Sectional Index being only up to the same time as the Prospective Consolidated Index I find that the Prospective Consolidated Index is sometimes four hours behindhand with the Quinquennial Sectional Index I said they were both abreast, but as a fact one is four hours in advance of the other.

1550. The VICE-CHANCELLOR.—The Sectional Index is four hours in advance?—Yes.

1551. And is that time pulled up always, or does it continue?—No; it is not pulled up. That is about the average time. It is important to be accurate on that as a matter of fact It shows that the Sectional Index is *pro tanto* the easier to compile, as might indeed be expected.

1552. Four hours—that would nearly represent a working day?—Yes, but not quite a day

1553. How are they kept, *pari passu*, at all?—Almost so.

1554. And does it take these clerks four hours longer than the ordinary day to keep up the Consolidated Index?—With all the hands we can employ on it we are not able to keep it up to the same point of advance as the Sectional Index.

1555. And you could not put more than two on them?—No; we can relieve the clerks when they are overworked or fatigued, but we never keep more than two on at a time

1556. Judge WALSH.—And the Sectional Index is always a day in advance of the other?—Yes, or thereabouts.

1557. Mr. MADDEN.—But is not the current five years' Index the one most searched by the public?—The decennial index is most searched for past periods.

1558. But it is the recent books that are most searched by the public?—Yes.

1559. And surely isn't it safer for an unskilled searcher to be told with certainty that if he wants, say Fox, for instance, he will find all the entries of that name under the first head, Fox, than to be given a Sectional Index, where, having found one batch of Fox's, he will have to travel down all the Fo's to find Fox again?—The tendency is that slow reading is surer than rapid reading. If they get a column they will run down and find the name of Fox rapidly and mechanically, while, in the Sectional Index, they will have to read every name strictly, the first two letters of which are like those in Fox, and that steadies them and makes them surer. Besides, they will find on the Sectional Index all the *alias* spellings without being broken into dictionary arrangement.

1560. How can that steady them if the thing they want to find is Fox, and Fox only? What is the good of taking them down through a long list of Fo's, like Forrester, and so on?—I cannot explain that. I myself was never able to understand the preference for the slower index, except upon the grounds I have stated before. There are names which have different spellings, such as Foot, Foott, Foid, Forde, Forester, Forrester, on the Sectional Index these appear in the same column, on the Dictionary Index they are in different places.

1561 Would you not say, from your own knowledge of indexes, that it would be much safer to send an inexperienced and unskilled searcher to where he would find all the Fox's together than to an index where he would have to search over all the Fo's, and find the Fox's scattered through them?—I should not say so

1562 Judge WALSH.—Probably the public prefer the Sectional Index, because it is given to them up to the day it is prepared, and thus in advance of the Consolidated Index———

Mr FINDLATER.—The public have only had the Sectional Index, they have not had the Consolidated at all?

Mr. *Dwyer*.—They have had a Consolidated Decennial Index, and have had ample experience of both.

1563. Mr FINDLATER.—You have no strong predilection, Mr Dwyer, in favour of having the Sectional Index for the public, and the Dictionary Index for official use?—No I was rather giving expression to the feeling which exists in favour of the slower index, but of course, if you have a Duplicate Prospective Index, the labour would be greater, because you cannot copy one from the other; you must compile both from the original sources, and besides, the *alias* spellings of the same name will be often widely separated to the danger and risk of any person making a search, unless skilled in the use of these books

1564. The VICE-CHANCELLOR.—Do you think it would be dangerous to copy the one from the other?—I think it would, and besides I don't see how it could be done, because they are in the hands of compilers from hour to hour, and could not be taken from them to afford facility for copying.

1565. Mr. MADDEN.—And if independently compiled they would form a valuable check, the one on the other?—Yes.

1566. The VICE-CHANCELLOR.—You check the Consolidated Index against the Sectional Index now at the end of the decennial period?—Yes. The next Decennial Consolidated Index will be constructed from the present Prospective Index.

1567. Has the practice of recording negative searches been of much value?—I think not.

1568 What is your opinion about it?—I think it has proved a decided failure on the whole, and that it has not been used to anything like the extent contemplated by the promoters of that supposed improvement

1569 Does it create much delay in the issuing of searches?—Considerable delay, because after a search is finished it has then to be transcribed into the

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recorded negative books, and, being transcribed, it has then to be compared by two clerks with the finished negative search before that search is given to the public, and that process only delays matters

1570. Is it usual to have recourse to these books for searches against the same lands for a subsequent purpose?—They are rarely used for that purpose.

1571. Do the public prefer to have a fresh search made?—They do almost invariably; and the only way I can account for it is this—that different counsel suggest searches against different persons, and the parties named in the requisition for a negative search, say ten years ago, may not be the same as the parties mentioned in the subsequent requisition against the same lands.

1572 But in a re-investigation of the same title—when a search for the same time against the same lands and the same parties is directed by counsel—is it usual to have recourse to the recorded searches, or do they prefer a new search?—In most cases they prefer to have a new search made

1573. Judge WALSH.—In your evidence in October last you said "The Recorded Negative Search Book is of little use to the office, and the number of copies of recorded negative searches ordered in the year is not considerable. The keeping of this book delays the delivery of negative searches to the public, inasmuch as all negative searches must be previously copied into it. If, however, the system of "exceptions" upon requisitions for negative searches did not exist, this book would be of more value to the public, as each search would then be more complete in itself?"—Yes; the reason stated there is one very important cause I think of the very little use made by the public and the profession of this

1574. The VICE-CHANCELLOR.—What is your opinion of the practice of excepting acts from requisitions?—I can speak for the very ill effects of it on the office The "exception" costs as much trouble to the office, and requires as much investigation, as the return of that act if not excepted would entail

1575 Would you state the reason why?—Because a memorial in the case of an "exception" must be read carefully, to see is that the particular act referred to as the "exception" in the requisition

1576. And I believe there is no fee now chargeable for exceptions?—No

1577. Would it add considerably to the labour of searching if the "exceptions" were all brought out as acts?—I think it would add nothing at all to the labour of returning "exceptions"

1578. Which would you prefer—charging a fee upon each exception equal to the fee charged upon an act, or doing away with exceptions altogether, and requiring every act without exception to appear upon the search?—I think that nothing less could be charged, in order to be of any value, than what is now charged upon acts returned. When I went to the office in 1869, three shillings was the charge, besides a stamp duty of one shilling.

1579. Upon exceptions?—No, but upon every act The solicitors complained of it very much, and it gave rise to great discussion in the office, and the result was that the profession naturally excepted any act that they did not require to have returned, and thereby escaped that charge. I called attention to this, to the inequality between the charges for acts in the Middlesex Registry and in Ireland, and succeeded in getting the solicitors to the Treasury to have that Act repealed and reduced, by a new statute they got passed, the charge from 3*s* to 1*s*., and I think that that charge is so very light, that if any duty is to be put on these "exceptions" it should not be less.

1580. Which would you prefer—that a charge should be put on exceptions equal to the fee charged upon acts returned, or that "exceptions" should be abolished, and every act required to be returned?—With the view to the public convenience, perhaps it might be better to put the duty on exceptions, but the practice is creeping in gradually and extending, of entering as "exceptions" acts that really do not come within the scope of the requisition at all.

1581. And that gives additional trouble and unnecessary trouble?—Yes; I was prepared recently to raise the question in a court of law with a professional gentleman, who seemed determined to retain such "exceptions."

1582. Would that not be a reason for abolishing the practice of exceptions altogether?—Yes, certainly.

1583 And then everything would appear as an act that comes within the requisition?—Yes

1584. And there would be no hardship then?—No, but at present I must say the system of "exceptions" has become quite an abuse

1585 Mr. MADDEN.—Have you ever applied your attention to the Scotch Search Sheet System?—No, but I understand that it would be very experimental at present

1586 It seemed to be something like a ledger account opened against each denomination?—Or opened against each party?

1587. No; as I understand it, it would appear to be very similar to Colonel Leach's plan of opening a folio for each denomination, and showing the dealings with that denomination on that folio?—I cannot say I have read Colonel Leach's plan with any attention, it only came very casually before me, but I object to Colonel Leach's plan, as far as I understand it to be a system of bookkeeping for each denomination of land. I don't see how an index could be constructed upon the large scale that would be necessary for the Irish Registry on such a basis

1588. The VICE-CHANCELLOR.—Would you kindly state your reasons for that opinion?—Well, it is a very large subject indeed, and I don't quite understand the plan in its details, but suppose we take Tinahely, in the county Wicklow, as a property in itself A folio is opened for that, and the acts done by A B while owner of that property will appear on that folio and under that head The property is disposed of, and after a few years passes into the hands of a new owner, am I, then, to understand that all the acts done by him will also appear afterwards on that particular folio?

1589. Mr. MADDEN.—So I understand?—Well, on that folio I might have John Smith dealing with the lands, and that same John Smith might be dealing with forty other properties in other parts of Ireland, and I should have to open a separate folio and ledger account for each of these properties, whereas at present on the Names Index I can at once find out what John Smith, or any other Smith, is possessed of, and I can refer rapidly by that means to all his acts affecting property in every part of Ireland.

1590 As I understand what I have read about the Scotch Search Sheet, it is a ledger account against each denomination in connexion with a Names Index?—It is a Parties Index as contra-distinguished from a Lands Index.

1591 But they have a Names Index, too?—Yes.

1592. And their object is to make it something like an abstract of title, and it has been stated that in Scotland they have no abstracts of title, because the search sheets supplied all the dealings with the property?—Very often we have searches going back to 1800, and it is necessary to have as succinct a registry as we can, in order to supply this; but if we had to go through the mass of reading involved by that plan, and turn out the same number of searches as we do at present, I don't see how it can be done. I was not aware that official searching is done in Scotland at all

1593 Oh, yes?—Well, I think in 1873 there was a sum of £25,000 or thereabouts granted to a certain firm of attorneys, or W.S.'s, in Edinburgh, in consideration of which these gentlemen undertook searches; I was not aware that there were official searches since.

1594. The VICE-CHANCELLOR.—You have already informed us I think that the multiplication of *alias* denominations for townlands in Ireland is productive

of delay and inconvenience in the registry?—Certainly, to a very large extent.

1595. Has it occurred to you to devise any plan by which that could be got rid of?—Except by the adoption of the Ordnance Survey I see no possible remedy.

1596. Would there be any difficulty do you think in adopting that system?—It occurs to me that there would be very considerable difficulty.

1597. I should be glad to hear your reasons?—In the first place, on principle, it is very doubtful to my mind if a survey, either official or private, that is not capable of being made legal evidence, is admissible as the basis at all of a land registry. Now the Ordnance Survey is not deemed sufficiently reliable as a survey of land as to contents and area to be receivable in courts of law as evidence of the contents. Neither is it deemed expedient, I believe, to introduce any measure for the purpose of legalizing it as evidence. That must proceed from some distrust as to the accuracy of the survey as regards the contents and area; and if there is a liability to error in respect to the area it must at once extend itself, I think, to the question of denomination, because the denomination and the area are in many respects dependent on each other. If a townland is described on the survey as containing 60 acres, and it contains in fact 70 acres, the 10 acres would be thrown into an adjoining piece of land known by another denomination, and the denomination applied to the 60 acres of land on the survey would not cover the 70. What I mean is this: If a man passed land by a deed, calling it say by the townland name of Ballybrack containing 70 acres, and it is found that the townland of Ballybrack on the Ordnance Survey only contains 60 acres, a discrepancy at once arises, and which are you to go by?—the survey which gives the lesser number of acres, or the deed which gives the greater number of acres? And then again there would be this difficulty: that part of that townland would be registered and part of it would not be, because the part not included on the survey under the denomination of Ballybrack, that is to say, the 10 acres, would not be registered. If the survey be inaccurate as to measurement, it must, I submit, be inaccurate also *pro tanto* as to the names.

1598. Supposing that, instead of giving it that exact operation, the system were adopted merely for the purpose of selecting the best name out of many by which, irrespective of title, the lands should be called and that they were registered by that name, would not that save trouble?—Then there would be one name for the lands in the title deeds and another for the same lands in the Ordnance Survey and in the Registry Books, because the registry you propose must follow the name in the survey and not in the deeds. I remarked one case where the lands were called Ballyskenagh in the deeds, and on the Ordnance Map described as Mountheaton. Supposing we adopted the Ordnance Survey denomination there and discarded the name in the title deeds, how can a person ignorant of that change of name ascertain that fact by reference to the Ordnance Townland Index. On going to that index he would not find Ballyskenagh and what is there to cause him to refer to Mountheaton. It would appear to me that that would lead to embarrassment rather than afford facility. Again another difficulty is this—that a deed comes in describing in conformity with the old title deeds a piece of land by several denominations and perhaps it may be the same and perhaps it may be different parcels of land, or perhaps it may be one denomination described by sub-denominations, and there could be no such corresponding names at all to those on the Ordnance Survey—such cases though not many do arise, and how is the officer of the Court to act if the Ordnance Survey is to be followed? A man gives in a deed in that case and the Registrar asks him "What are these lands known as on the Ordnance Townland Index," and the party replies "I don't know, you must discover that," and on reference to the index it is found that there is no corresponding denomination on the survey at all; what is to guide the officer and what is he to do. Perhaps I am going outside the question in that, but in my opinion there may be great difficulties in the way of registering lands which are described by one set of names on the deed, by another set of names merely because they appear by these other names on the public survey.

1599. Mr. MADDEN.—But you are assuming that there would be some responsibility in the office of seeing that the names given in the memorial for registration were the proper names. That would not exist if you threw that responsibility on the party coming to register?—I read in one of the resolutions "And in like manner when the townland names as used in the Ordnance Survey are not stated in the instrument, or any denominations other than such townland names are contained therein, the Ordnance Survey names shall be stated in a like certificate." I would infer from that that the barony and county or city or town and parish should be indorsed upon the instrument by certificate.

1600. The VICE-CHANCELLOR.—Yes?—And if an instrument is brought in, then it is incumbent on us to see that no matter what the names are in the deed, or if there be various denominations of names in the deed that are not on the survey, that it is our duty not to admit the deed for registration unless the survey names are given.

1601. The VICE CHANCELLOR.—That is you are only to register as against lands, the proper survey denominations of which are given in the certificate?—Yes; and that might lead to excepting the deed altogether from registration.

1602. As to lands wrongly described in the certificate only?—Yes, and am I to understand that when a deed is brought in the officials are to read it with the Index of the Ordnance Survey to see whether there is a uniformity.

1603. The first duty of the clerk, before admitting the deed to registration, would be to see whether there were any denominations in it that were not Ordnance Survey denominations?—That would be a preliminary trouble, of course it can be done for the index is at hand, but suppose a person goes in to register a deed and he is not sure that names given are the proper Ordnance Survey names, and that the officer has to go through twenty or thirty denominations of lands with the index, that will take time and so far embarrass the public who are waiting to have their deeds registered.

1604. Mr. MADDEN.—If it were provided that the office could recognize nothing but the Ordnance denominations, when a deed is brought in containing several denominations, would it not do to accept them on the certificate of the solicitor that the denominations are properly stated according to the Ordnance Survey, and then proceed to register only against such as are properly stated?—Of course that would lessen the delay.

1605. The VICE-CHANCELLOR.—That is what we propose "And in like manner when the townland names as used on the Ordnance Survey are not stated in the instrument, or any denominations other than such townlands names are contained therein, the Ordnance Survey names shall be stated in a like certificate"?—But I assume from that, that when there was a certificate, the certificate would have to be checked. Supposing a solicitor certifies that the lands called Ballynascarthy are known on the Ordnance Survey as Blackacre, I'll have to search and ascertain whether that is the proper name and that will delay the progress of business if we were to do that with eighty or one hundred deeds in the day. Again if we assume that these are the townland names without going through the process of checking them, when we come to the index we may be making the wrong entries there. If we check it there will be trouble and delay and if we accept it, assuming it to be correct, without checking it, there may be an error in the description of the lands and that error would run through our entire system of registry.

1606. Mr. MADDEN.—But the question is, when the verification should take place so as not to

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delay the registering, would it not do to accept the deed and memorial or abstract on the certificate of the solicitor, and then when you come to make up your Lands Index, if you find that any denomination is wrongly stated, to strike that out?—That would be a very serious business. Have you considered the effect of this on searches afterwards? Searches will be directed for acts affecting lands known by the names given in the old title deeds. Say that the lands of Clanwilliam, in the county Tipperary, are on the Ordnance Survey described as the lands of Longstone. A search is directed for acts affecting these lands twenty or thirty years hereafter, and, it might be, directed against the old name; and that would have a misleading effect, I think. People would not know what this manipulation of the nomenclature of lands means at all.

1607. The VICE-CHANCELLOR.—Did you see this in the resolutions: "That the Commissioners should recommend that the Ordnance Survey Department should publish a statement of the sub-denominational and *alias* names of the townlands mentioned in the Ordnance Survey"?—Does that not go back to the old *alias* principle. if having abolished all the *aliases*, will not that be the adoption of the *alias* principle again?

1608. No, because it would be only for the convenience of persons wishing to ascertain what the Ordnance name for these different denominations was?—Yes, I see, and for the reference in the office.

1609.—Mr. MADDEN.—As to the difficulty of the name changing, it is only stating that we cannot make the system perfect for the past. Suppose there is an Act coming into force in 1880, by which the Ordnance denominations are the only denominations recognised in the office, the public would know that it is futile to make searches after that against anything but the Ordnance names. When once the Act is passed any child could know that?—Well, country solicitors who don't employ town agents will be greatly inconvenienced by this, because they will be directing searches against names in the deeds.

1610. But is not that about as simple a piece of knowledge as any solicitor might be expected to acquire?—Yes; but it is changing the nomenclature of the land and breaking the continuity of the Registry in the Index of Lands, and the less changes of that kind the better, I think.

1611. The VICE-CHANCELLOR.—As to the office, if an alphabetical list were supplied to you by the Ordnance Survey of all the townland denominations, classified by counties and baronies, would you have any difficulty in checking the denominations in that with the names in the deeds—if there were any names in these deeds not on that index, or if there were names in the deed which were not reconciled with the names on the index, that you should then reject such names for your registry from the Lands Index?—Might I take the liberty of supposing a case—a name in the deed, and no corresponding name on the Ordnance Survey. Would that have the effect of excluding altogether the lands dealt with in the deed from the Lands Index?

1612. Yes; excluded from the Lands Index?—Well, the difficulty would not be got over in that way. It would exclude some lands from the registration altogether.

1613. And then, supposing that that was accompanied by a provision that in case the deed itself were inaccurate in that respect, that the error might be corrected by the certificate on the deed showing that what were described on the deed as so-and-so were the lands known by the denominations of so-and-so on the Ordnance Survey. If, then, when constructing the Lands Index, you find they were not those, that then you should reject them?—Well, there would be some complication in that. It would take time to compare.

1614. Judge WALSH.—The idea is this: nothing is to be registered but the Ordnance denomination, and that must appear in the body of the deed, or in a certificate stating the names in the deed, and identifying them with the Ordnance denominations, and you are not to register anything except in the way given to you, and the responsibility is thrown, not upon your office, but upon the man coming to register his deed, because if he does not comply with these requirements the result will be the exclusion of the deed in the first instance?—I perfectly understand, but it will result in excluding a great many deeds.

1615. The VICE-CHANCELLOR.—But is it workable?—It is quite feasible, as far as we are concerned, but there must be still difficulties to contend with. Say there are five denominations in the deed and only one on the Ordnance Survey, you would first have to assume that the Ordnance name was equivalent to the five names in the deed.

1616. No, not so far as you are concerned; you are only to register it against the Ordnance denomination?—Still there would remain the difficulty of identification. How are we to identify lands different in name altogether.

1617. You don't identify them at all. You only work upon the deed, and register solely against the Ordnance Survey names, rejecting anything that does not correspond with the denomination on the Ordnance Survey index?—You observe that is a very great difficulty.

1618. Mr. MADDEN.—Supposing a deed, such as the one you have mentioned, described the lands as Ballyskenagh, that the name on the Ordnance Survey was Mountheaton, you would not have to identify these two denominations, but you would not register unless the proper Ordnance Survey denomination were given, in a certificate indorsed on the deed, and you would work upon that. Take another case: A deed is brought in dealing with all the estate of A B in the County Tipperary; you have a certificate that represents the lands of Blackacre and Whiteacre; you would only ascertain that these were in fact Ordnance Survey denominations, and work on that?—I see, that would be simple.

1619. The VICE-CHANCELLOR.—Is there any fee charged now upon each denomination?—There is threepence upon each denomination after the first.

1620. I am talking of registry, you know?—Yes.

1621. Then, in point of fact, every "*alias*" name adds to the expenditure?—Yes, largely.

1622. Mr. MADDEN.—Do you apprehend, Mr. Dwyer, that if the Ordnance denominations were adopted there would be any difficulty in having the Lands Index written up to within a reasonable time—say 48 hours or so?—I think it would enable it to be brought up much more to time.

1623. How much is it in arrear now on the average?—About four weeks, I think, is the average—from three to four weeks. It is completed up to a more recent period, but it is not compared, and I have no doubt the number of "*aliases*" increases the labour of comparison as well as it increases the labour of entry.

1624. The VICE-CHANCELLOR.—Is not this evil of occasional or frequent occurrence—that in stating a number of denominations of land, which are situated in three or four baronies, they state the denominations with the general addition, "situate in the baronies of so-and-so," without distinguishing the baronies in which the lands are respectively situated?—Yes.

1625. Does that increase the work?—Yes, and it repeatedly occurs in deeds prepared in England. We have to enter them all up in our transcripts, and they get off with a small fee, because no fee is chargeable on what they omit.

1626. Could that be remedied by imposing a fee as if they were mentioned with each barony?—Yes; it is very nearly equivalent to giving you no barony or county at all. It is an incomplete form, and it increases even the labour of searching; from its vagueness it is utterly misleading.

1627. If a deed was brought up to you now, with a

memorial executed only by the grantee, for registration, and that you look to the deed and find that it was in fact executed by no person purporting to be a grantor, would that deed be admitted to registration?—No; we require proof of the deed by the grantor, but the execution of the memorial by the grantee will enable him to register the deed.

1628. Would you put it on the registry supposing the deed and memorial were brought up to you, and that both were executed by the grantee. As far as the memorial goes, that is, a good memorial, but would you reject the deed if you found it was not executed by the grantor?—I have invariably done so myself

1629. Mr. MADDEN.—Suppose it is executed by the grantor, the case the Vice-Chancellor puts is that of a deed not executed by the grantor. But suppose that it is executed by all the parties, but that the affidavit of perfection only proves the execution of that deed by a party who is not the grantor—the grantee, say—is not the practice of the office to accept that deed and put it on the Registry?—Without any proof of the execution by the grantor?

1630. Yes?—I should think not. I don't know a case where that has been done. I know that even doubt has been thrown upon the registry of some such memorials as we now accept

1631. The VICE-CHANCELLOR.—Your practice, however, has not been to accept a deed in registration without proof of execution by the grantor?—Not in my time, certainly.

1632. Mr. MADDEN.—The Assistant-Registrar told me that the practice was, that when an instrument was brought up for registration with such an affidavit of perfection, to call the attention of the solicitor or clerk bringing it to the fact that it was not a statutable registration because of there being no proof of execution by the grantor, and to offer it to him to have that defect remedied, but inasmuch as it was generally done as a last resource, they left it to be registered, and it was mostly registered for what that registration was worth?—I would certainly reject it.

Mr. LANE, Q.C. (*Secretary*).—When I inquired into the office the practice was "under the existing law, not only may a deed be registered at any time, but that it may be registered at the instance of any grantee upon a memorial signed by him, he bringing the deed executed by the grantor, if only a witness to the signature to the deed by the grantor happens to be alive"?

Mr. MADDEN.—Do you mean that as a statement of the law?

Mr. LANE.—No; as a fact, that was the practice of the office at that time.

1633. The VICE-CHANCELLOR.—A deed brought up to you executed by no grantor, and not proved to be executed by any grantor, can clearly be refused. Suppose that that deed upon inspection appears to contain a number of grantors, and that only one of them appears to have executed it, that one being the person whose signature is proved by the affidavit of perfection, will that be received and recorded on the Lands Index against every person named as grantor?—Yes, it will, exactly as if we had the execution of all proved, and that is what I would like to have settled. It is a most important point of practice, and I think an evil to register against persons who have done no act. We treat them as if they had actually executed the deed, and we charge them in our books as having done an act whereas they have done no act, and the books to that extent are a misrepresentation. Great complaint is justly made on that score.

1634. Has it actually occurred that complaints have been made of that?—Repeatedly, and I have always found great difficulty in saying that I would indorse this registration against persons who have never executed the deed.

1635. Do you think it would be more desirable to register only against the person whose execution appears on the deed?—It would be more logical, at all events.

1636. You would require to have proof of the signature of all the grantors; but if they all appeared to have executed, would you admit the deed to registration on an affidavit of perfection of the signature of one?—Reading the Act, I should be inclined to think that the deed should be executed by every person who was to be described in the books as a grantor. That would, at all events, keep our hooks straight, and prevent hardship or wrong being inflicted on any one. It does seem strange that a party is made a grantor, although he has never executed the deed on the affidavit of its perfection by one who has.

1637. There is a gap at present in your Consolidated Index from 1800 to 1828?—There is.

1638. Is it not very important to have that gap filled up?—Most assuredly. We have indexes for that period from 1800 to 1828; but these are very inferior—many are Yearly consolidations, and none contain the counties. They are defective indexes, not containing the particulars and information to be found in our indexes since 1828.

1639. Have you the materials for making the index a perfect index—to fill up that gap?—Yes, from the memorials.

1640. What labour do you think it would take to fill up that gap—what number of clerks, and for how long should they be employed?—Five clerks, for at least five years. I think it would take that number, at least, besides scriveners

1641. Five clerks for five years?—At least; but I should prefer to get ten writers to five staff clerks. I think a great deal of the work could be done by writers or temporary clerks

1642. Under the direction of an experienced clerk?—Yes; but they should be employed exactly upon that work for five years

1643. And would it take ten temporary clerks or writers, as you call them, to do that work?—Yes, or thereabouts.

1644. Do you think the importance of it would warrant the incurring of that expense?—It would be of great importance. We can make several searches from 1828, where our present Index Books commence, for every one we can make for the period between 1800 and 1828

1645. Of course these searches over that back period are becoming less in number every day?—The searches upon the back periods are diminishing in number every day, but as an average they go far, very far back, and it would be a great convenience to us to have that gap filled up.

1646. Mr. MADDEN.—Are there any other indexes or books that require completion also?—There are Abstract Books, and those save the trouble of reading the memorial.

1647. The VICE CHANCELLOR.—For what period is there a gap in these?—For the same period—from 1800 to 1828.

1648. Was that included in the estimate of expense you have just mentioned?—No, only the indexes.

1649. And this completion of the Abstract Books for that period would require skilled labour?—Yes

1650. And of a high order?—Yes, because the abstracts are compiled upon our present principle for that period, and all the labour must be skilled official labour.

1651 How long would it take, and what staff to do that work?—I don't think you could compare more than 12,000 or 13,000 abstracts in the year with two clerks. I would prefer sending you a statement of that in writing.

1652. Mr MADDEN.—And probably you would also answer this question in writing at the same time—a deed is tendered for registration, and executed by all the parties thereto, but the affidavit of perfection merely proves the execution of the deed by the grantee; is such a deed in practice admitted to registration?—I shall.

1653. Do you think any advantage would be gained by printing your Consolidated Index?—I don't think

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the advantage would be at all commensurate with the expenditure required. I have heard no complaints about our indexes. I think they are as legible as print; and, moreover, if you print on parchment there is a tendency to efface. That, at all events, is my experience of Landed Estates Court deeds on parchment. The printers' ink has not the same abiding effect that the ink we use on parchment has.

1654. But, supposing it could be printed on parchment, would it be attended with any considerable advantage?—Not any considerable advantage. It might be more easy to read, but I think, considering the great resort to the office and the absence of all complaint against our indexes, or suggestions in favour of printing, I venture to say it could hardly be called an improvement.

1655. You see, the great value of printing would be to multiply copies?—But the value of multiplication again would depend on the number of copies wanted.

1656. How many copies have you now?—Two for the public and for the official searchers, and we find that sufficient as a general rule. Instances will arise of very slight delay for the book which a particular searcher wants being in the hands of another person; but that rarely happens. When a person is engaged with a book so wanted, the searcher will be in a position to continue another part of his work on another book.

1657. The VICE-CHANCELLOR—Does the sub-division of the books greatly facilitate the business?—Yes.

1658. Are there complaints made now of want of accommodation for the public?—Great and just complaints.

1659. Well-founded complaints?—Just and well-founded. The public searching-room is quite insufficient in size for the people there, and the official searching-room is wholly inadequate, too. It is utterly unwholesome, and much of that is caused by want of space.

1660. Is there space there in which room could be gained without building?—There is some space, but that would not be sufficient.

1661. In the building?—There are rooms vacated by the department that is now located in Charlemont House, but they are so isolated that they could hardly be made available for our purpose.

1662. Could you suggest any mode of increasing your accommodation there without building?—Yes; by having the Probate Court offices sent down to the Four Courts, and the apartments given to the Registry of Deeds. That would be a great boon to the public. It would accommodate them greatly to have the Probate department beside the court; and it would be a great boon to us and to the public frequenting the registry to have more room.

1663. Would that involve the removal of the wills down to the courts?—Yes, all the records.

1664. Could sufficient room be gained there?—Abundant. I think our requirements are of such a character as to demand some step of the kind being taken. It is difficult to transact our important business in apartments of insufficient size; and in the interests of the public and solicitors, as well as of the department itself, I think immediate attention should be given to the matter.

1665. Are all the proper precautions taken, in your opinion, against fire and for the safe custody of the deeds there in that respect?—Yes. I should mention that an attempt at fire broke out in the Registry of Deeds office four or five years ago, but no harm came of it. Some timber got ignited under the hearthstone in one of the rooms. I then recommended the Board of Works office to supersede fires altogether in all the rooms except the registrar's rooms, which are completely shut off by fire proof doors from the general body of the office, and since that time we have had the place heated by pipes, and by that arrangement there is no possibility of fire.

1666. Mr. LANE, Q.C. (Secretary)—Hot air pipes or hot water?—Hot water, and upon that point there is great complaint by the staff of the ill effects upon their health, they have expressed a wish that we should recur to the old system of fires.

1667. The VICE CHANCELLOR—Does your opinion agree with theirs upon that subject?—I think their objections well founded indeed, it is an unwholesome mode of generating heat; but until some equally good precaution against fire was provided I would not recommend that we should recur to the old state of things.

1668. In your opinion is their complaint, that it interferes with their health, well founded?—Oh, certainly, I think it does.

1669. The more so I suppose because not only of the mode of heating but of the effect that it has in these confined rooms?—Yes, that aggravates it, and then the work they have of handling this unwholesome matter, these old parchments, makes matters worse.

1670. Do you think there is imperative necessity for increasing your room there?—An imperative necessity, and the Treasury are losing by the want of increased room because the staff are suffering from ill health arising from what I have mentioned—from working amongst what Mr. Lowe was pleased to call a mausoleum of parchments, in a vitiated atmosphere and in a confined room.

1671. Have you adequate storage in the vaults for the original records?—I think we have.

1672. I believe these stores also contain a great quantity of the old books?—Yes; of the original books.

1673. Have you considered the subject of provisional registration?—I cannot say I have considered it very much, but I have thought that something of the kind would be very desirable. What often occurred to me was that a *caveat* might be lodged for instance by an intending purchaser, stating upon the face of it that he was about advancing a certain money loan upon certain lands to be named, and that that should be recorded as a notice, that pending that transaction no person could deal with the property in question except at his own peril, and that that should only be for a limited period; because sometimes it is complained that between the time the search is closed and the time when the deed is executed and the money passed there may be an incumbrance surreptitiously or fraudulently put on the file that would take precedence of that sale or mortgage; and that there is an intermediate period during which there is no guarantee to the purchaser against a thing of that kind.

1674. Would you approve of such provisional registration extending to cases where some imperfection was detected in the deed or memorial or abstract, that would oblige you, under the present system, to hand it back in order to have that defect made good?—I would very strongly approve of that, but not by a stop file. I would think there should be an index to that, it would be a distinct series of records.

1675. And for such provisional registration would it not be easy to open a separate book?—It would be.

1676. Which book would not assume any large proportions?—It would increase the labour of the office, and it would be a reason for increasing its strength. It would not have any practical effect at first upon the office, but in the course of time that file would be very much used I think; many documents would be put upon it, and the keeping and indexing of it would become a serious delay enough.

1677. But if the operation of such a thing was limited, say to three months, it would be no great difficulty in searching then?—No. I often suggested another mode of meeting that evil, which was to direct searches to be brought down to a day that would be considerably subsequent to the time when the transaction was to be completed to which the search related. For instance, if a solicitor closed a search on the 1st March, but did not make the advance until the 13th March, I would advise him to have a supplemental search taken out to some day beyond the time. That time, of course, should fall within our

completed index, but it would leave only one day or two, during which a search upon the responsibility of the solicitor himself would be necessary. At present very frequently a search is required up, as I have said, until the 1st March. It is ready in the office there, it is delivered out when called for, and the money not paid until the 21st, and during that period they have to search in our Names Index from the 1st March, and to continue that on the day book, and from that by going into the front office and seeing the list published in the registrar's hand; but you get rid of all that by having the supplemental search which I have suggested.

1678. And the whole of that could be got rid of by allowing a *caveat*, or provisional registration?—It would.

1679. Is it a matter of frequent occurrence in the office in the case of negociations for a loan or a purchase, that an agreement afterwards to be carried out more formally is brought in and registered?—They do that, very much to the prejudice of Her Majesty's revenue Sometimes an agreement for a considerable amount is registered on a sixpenny stamp, with a provision that the deed should be completed and registered afterwards, and that registration of that agreement is as binding as the registration of any subsequent deed, and therefore no deed is brought in and no stamp duty paid

1680. Though the transaction is carried out?—Yes; and it is a thing I think should be brought before the Court of Exchequer or the Treasury, because there is an extensive evasion in this way of the *ad valorem* stamp duty.

1681. In substance, would not the whole of that be put an end to by adopting that system of *caveats*?—I think it would largely stop the practice of these loose agreements

1682. A person might enter that *caveat* for three months, complete his deed, and have it registered within that time?—Yes.

1683. If he has not his deed registered within that time, he must bear the consequences?—Exactly, or renew his *caveat*; and another point I would like to state, that I have had experience of the labour resulting to the public, and the office, from the reconveyances of mortgages. The Church Fund is advanced in this country upon large mortgages. Well, in each case the solicitors for the Church Body very properly require reconveyances The money having been raised to pay off previous charges, and so applied, a reconveyance of those charges by a separate deed in each case became necessary, and we had all the trouble of making these several entries on our Names Index and different books, and they were particularly oppressive on our Lands Index. We had then to register a mortgage to the Church Body of all these lands again, and go through the process of putting them on the Lands Index once more. If a simple mode, such as the avoiding of a mortgage, and revesting of the estate were adopted, somewhat like the satisfaction of a judgment-mortgage in our books, it would render much of that re-indexing unnecessary.

1684. Mr MADDEN.—That is a branch of a larger question, whether there ought not to be some means of getting rid of all that back title, and clearing away what Mr Lowe calls the great mausoleum of parchment In the case you speak of, would you cancel the mortgage?—It would remain there, but it would not be returned as an act Now, we return satisfied mortgages as acts, and it is absurd, I think, when they have been long since voided, in fact; although not so marked in our books

1685. The VICE-CHANCELLOR.—Would you recommend putting your office in connexion with some branch of the Court of Chancery, so as to refer doubtful questions to them?—I see a provision here (in the draft resolutions) for getting an order from the Court, but I should prefer that the department should retain its own autonomy.

1686 I mean in reference to such matters as Mr. Madden has been asking you about now—whether for instance—it would not be desirable that an order might be obtained from the Court for the purpose of cancelling a registration improperly made?—We are constantly registering your orders, Vice-Chancellor; such as orders appointing new trustees or setting aside a deed. We make the Court, and the party directed to reconvey, both grantors. We say "High Court of Justice, Vice-Chancellor's Division"—this is one of the headings; and then in the books and in our Land Index we treat the person directed to reconvey as if he had done that act, or if he does not do it we give full effect to your vesting and divesting orders.

1687 How do you register the bankruptcy orders?—Under the name of the Court; we make the bankrupt and the Court convey to the official assignees, and we then, when the adjudication is set aside, reverse that order.

1688. And make a reconveyance?—Yes, from the official assignees to the bankrupt.

1689. And then you register the order as if it were a deed?—Yes, there is a certificate of the order brought in, and we treat that as a memorial.

1690. This is, in fact, the practice of the office then, "That certificates of the appointment of assignees in Bankruptcy should be registered as if the bankrupt were the grantor and the assignees were the grantees, and that they be indexed against the name of the bankrupt and in the Names Index only"?—Yes, and against the Court

1691. Are they put in the General Acts Book?—On the General Charge column, and it is a great trouble to us in subsequent searching.

Judge WALSH.—I intend to remedy that, because I was looking at the Act of Parliament, and I will make them supply you with the names of the lands, as they are bound to do, because you are to register under our certificate as a memorial.

1692. The VICE-CHANCELLOR.—Would you approve of this, "That if a deed or will relating to real estate shall have been lost, an abstract of such deed or will may be registered on the order of a judge, on such proof of the execution of such deed or will and its loss, as he shall deem sufficient"?—I would.

1693. I believe I interrupted you in a statement you were making as to wishing to maintain the autonomy of your office; will you complete that answer now?—Because the department is so large that it requires to have all powers vested in the head of the office, and vested in him exclusively, so that the whole authority as well as responsibility of the administration should rest as it now rests with him. When I refer, for instance, to the Treasury for direction or advice, I am reminded that their control is limited to financial matters. I think if a clerk misconducted himself, for instance, and the head of the department could not dismiss him without consulting another, it would paralyse the administration of the place

1694. I wish to point your attention to matters of a judicial character, such as the registering of a lost deed, would it not be desirable that you should have the power of taking the opinion of a judge of the High Court of Justice on such a question?—Or compel the parties interested to take the order of the court?

1695. Do doubts arise in your mind of sufficient importance to render that desirable?—Yes.

1696 Judge WALSH.—And providing that there could be a provisional registry?—It would exactly accord with that I think it is most important to have that power vested in the court of giving directions or an order in reference to any matter connected with the act of registration.

1697. The VICE-CHANCELLOR.—Suppose a registered deed is set aside as fraudulent by the Chancery Division, you have no power now to cancel it?—No, but I treat the order of the Court as an act affecting the land, and enter it accordingly.

1698. And how would the fraudulent deed appear in the books?—As a prior act.

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1699. And the fraudulent deed would appear and the act of the Court cancelling it or directing that it should be set aside?—Yes.

1700. Would it not be more convenient that there should be power to the Court to cancel both?—No, I think it would be better to have them both standing as at present, as intermediate searches may have been issued. There was a case, for instance, of a Jew money lender in Dublin who lent money I think to a man named Le Fanu, and the deed in the case was set aside by the Master of the Rolls. You will find under the heading of "Dutch" you will find "Dutch grantor to Le Fanu, order of Court of Chancery." That is reconveying the lands alleged to have been fraudulently with. Then reference from that to the Books will show in full the decree of the Court.

1701. And do you think that process works well?—I do, perfectly.

1702. I believe these transactions are of such rare occurrence that there is no practical inconvenience to continuing it?—No.

1703. Mr. MADDEN.—I have since been looking at the Scotch search sheet and it is plain now what it is—it is something like a general act search. This is the Names Index of Fleming and Jenkinson. There you find reference to 8365, that is the number of the search sheet, and on turning to that you will find all the dealings of Jenkinson, and also of Fleming, in connexion with the property of Baxter's-place, Edinburgh. That sheet appears to be arranged in chronological order containing all the acts affecting the lands. Would there be any advantage in your opinion in keeping daily all act searches for that is what this Scotch sheet amounts to?—Certainly not, our own system is by far preferable.

1704. The VICE CHANCELLOR.—You see that this day search sheet also gives the acts of Jenkinson in the same way?—Yes, it is just a negative search, that is all.

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Mr. MICHAEL FRANCIS DWYER further examined by the VICE-CHANCELLOR.

1705. Mr. Dwyer, do you think it would be an improvement upon the present system of constructing the Lands Index if the plan proposed by Colonel Leach in his book were adopted?—I should think it would not, but the very opposite. I think the two indexes are merely a clumsy imitation of our system.

1706. Which two indexes?—The Lands Index laid down by Colonel Leach, and the Names Index. With great respect, I think they are a mere clumsy imitation of the present Lands Index and the Names Index in the Registry of Deeds Office, and I think that the objections to both are very numerous indeed, and very serious. But, in point of fact, the whole plan appears to proceed, as I have said, upon the lines of the existing system. Colonel Leach proposes in the first place, as I read him, an abstract to be made from the memorial, and that abstract is to supersede, of course, the present abstract and the Day Book, and so far, I think, it would be an amalgamation of what he conceives to be the material points of information contained in both these books. That abstract he accepts in its totality, without any qualification or distribution into the Names Index and into the Lands Index; and so far as the Names Index is concerned it does not appear to be in the true or even in an approximate sense of the word, a names index at all. He gives you the name as it is found—he takes the first name in the abstract taken from the memorial, which is taken from the deed, and he puts that down. Upon that he builds his Names Index. He takes the name of Atkinson, the first name in his abstract, he introduces that name then under the proper letter of "A" into his Names Index, and then he gives, without the least regard to alphabetical order even, the names of all the other grantors in the abstract in the order which he finds them there, which is not at all a classification, as I have said, by alphabetical order even, much less by dictionary order. Suppose I look for one of the sub names here—Wm. M'Creigh. I refer to the name of M'Creigh, and I find it in the Names Index under that letter, but I find combined with it, Atkinson, Mackey, and Hay, those being three other supposed grantors in the abstract. Well, that is not a Names Index, except as regards one of those names, because it is brought into conjunction with other names which ought to be kept separate and apart from it, and which other names should be found, and will, in fact, be found in another part of the index altogether. What I find fault with is that it conjoins with the particular name several other names—half a dozen perhaps—which don't come properly at all under that name or under the heading of the names which precede it. In our system we have all the Atkinsons together, and apart from all other names not commencing with that initial letter, whereas Colonel Leach has all the names in the abstract with that name. If there were twenty grantors in an abstract he would put the first, if being Atkinson, under Atkinson in his index, and the other nineteen names after it, and then he would put down the next name, Mackey, under its letter with the other names, and so multiply immensely the entries in the Names Index, and that in a degree which—if the indexes are to be in manuscript—it would be absurd to attempt.

1707. He does not increase the number of entries, because if you had a deed presented to you for registration, say, with twenty grantors as you have supposed, that would be entered twenty times in your Names Index, under the name of each grantor?—Yes.

1708. He proposes also to enter it twenty times, but the difference in his plan is, that in the case of each of the twenty entries he introduces every one of these names, as well as that of the particular grantor against whom the entry is made?—But suppose that had to be done by the pen see what an amount of additional labour it would involve.

1709. Mr. MADDEN.—It is not that there are more entries under Colonel Leach's plan but more labour on each entry?—The number of entries is multiplied, say by four, if we take four to be the number of grantors ordinarily in an abstract.

1710. There are no more entries, but each entry is longer?—In our Names Index, if we are dealing with an abstract with four grantors, we would have four entries to make, and if he were dealing with the same abstract he would have sixteen.

1711. Judge WALSH.—That is sixteen names to write up?—Yes; and the searcher would have to read sixteen names for the particular name he wants—may be the fourth name and at the bottom of the list. Then besides the increased labour of writing up the index, and of searching the labour of comparison would be increased.

1712. And, I suppose, the danger of error would also be increased?—Yes; with each additional entry there is an additional liability to error on the part of the searcher. His mind must be dazed or confused by the introduction of irrelevant names into his reference.

1713. And of names too, which he must keep in his mind more or less?—Yes; Mr. Lane has dealt with this very difficulty, I think, in the second last page of his report. He deals with the difficulty arising from the collection and bringing together of a number of names unconnected with the particular name against which a search is directed. For instance in the case of that instrument of Lord Claremorris, which dealt with different estates, and in which the dealings were by different parties and in

a variety of ways. All the grantors are to be brought in connexion with the name of Lord Claremorris, though third parties have joined, and are grantors under it. The result is that the searcher has to read all these different names in the first place to come to the name of the particular party against whom he is searching, whereas in our system he would find that name separated from all those other names, and they would never come under his eye or observation at all. But in the case of Colonel Leach's plan he would be subjected to that increased trouble, which, multiplied in a great number of cases throughout the day, would constitute a serious element of danger, as regards the accuracy of the searches.

1714. Mr MADDEN.—As to this element of danger, would not the repetition of the names of all the grantors under each entry only make each entry fuller—take the case of Atkinson, Smith, and Jones, as grantors, and *suppose* that you are searching against Jones, you would not trouble yourself with Smith or Atkinson. How are you confused in looking at Jones in such an entry if, instead of finding the short entry only, you also find this additional information, that there happened to be two other grantors besides the one you are searching against?—That is no valuable information to me.

1715. But how does it embarrass you, or imperil the accuracy of the search?—I am looking for an act done by Jones, and I am presented with a document which shows me that three or four other persons have also joined him in some respect in the particular transaction. I repeat that then in the case of thirty or forty abstracts in succession, and I consider it more difficult for a man to pick out the single name he wants from amongst all those names than to search in an index where he finds it by itself.

1716. If he is only searching against Jones, the only thing he would note would be that it was an act of Jones?—Take the case where there are say ten grantors, that abstract containing those ten grantors on this Names Index is presented to his mind: he has to read name after name until he comes down to perhaps the end of the abstract, and finds the name against which he is searching. Is that not a more difficult and tedious process for him than if he had only the one name presented to his eye.

1717. But the moment he finds the name of Jones under "Jones," he need not go further?—It is self-evident that if the name is mixed up with half a dozen other names, not in alphabetical order, but at random, it must be more difficult for him than if the single name in its complete unification is presented at once to his observation. In the second specimen given here (in Colonel Leach's book) commencing with "Morgan," there are eleven grantors, and it may be that the last name of the eleven entered into the abstract here, apart from all classification, is that which the search is against. It will take more time to read that down than to find the name under our system. The searcher has to read every name carefully lest the particular name he is searching for escapes his attention; and it might escape his attention if he has to read a large number of names. What improvement is there in presenting a number of names to the searcher instead of the particular name he wants?

1718. The only way in which it could be suggested as an improvement is that at present it is necessary, in order to get full particulars of the deed, to have recourse to the abstract—the abstract which informs you that the act in question is the act not only of Jones, but also of Smith and Atkinson.—In my opinion this (Colonel Leach's plan) contains entirely too much for an index.

1719. The VICE-CHANCELLOR.—Looking at any of those examples under the head of Atkinson in this book of Colonel Leach's, do they contain the same information that appears in your abstract book of these particular memorials?—They do, but not in so good a form.

1720. The first is a deed of conveyance of the 30th August, 1834, registered on the 21st March, in the year 1860, in such a book and at such a page; it tells you the names of the other parties who are grantors with Atkinson; it tells you the grantees' names, it tells you the consideration; it tells you the name of the premises and the parish, barony, and county in which they are situated—is there any more information than that in your abstract?—No, I think not.

Judge WALSH.—You will find a specimen of the present form of abstract in the same book.

1721. The VICE-CHANCELLOR.—Yes; it gives the year and day of registration, the nature of the instrument, its date, the names of the grantors and grantees, the consideration, the name and description and situation of the premises—both appear to give the same information?—Yes; so far they correspond. In point of fact Colonel Leach's is the abstract annexed to each particular name.

1722. Mr. MADDEN.—Therefore it is sufficiently full for an abstract?—It is. In point of fact it is a perfect abstract annexed to each particular name in the Names Index.

1723. The VICE CHANCELLOR.—Therefore you have the abstract repeated under every entry in place of a simple reference to it, as in your Names Index?—Yes; and the objection to that plan as regards the Names Index is the one I have just now stated.

1724. Which do you think would be more convenient. To have an entry like that provided by Colonel Leach's plan, which would save the necessity of looking when once you have found the name to the abstract book, and would itself, on the first view, supply all the information now obtained in abstract book, or to refer, as at present, to the Names Index, and then to the abstract book which you would have to search to see whether it related to the person or premises in question, and to discard it if it did not, and go on till you found the act you wanted?—I think the present arrangement is simpler and better for the purposes of an index. The object of an index, in my mind, is, not to give all the particulars contained in an abstract or in the deed, but simply to contain an easy and direct and clear reference to the document to be got at. This (Colonel Leach's) is upon an opposite plan. It incorporates, in every instance, the abstract with the index. In the case of a single grantor there might be less objection to such a plan, but where the names of the grantors are numerous, and the names of the lands are numerous, to bring them altogether into either of the indexes, would give rise to a great deal of confusion, and embarrass very much the mind either of an official or an outside searcher. The entry becomes unlimited almost, or to a certain extent, and the inevitable result of that amalgamated abstract and index, to my mind, would be to very much enlarge the ideas and objects presented to the mind of the searcher, and therefore to embarrass him. In this combined Names Index and Abstract, he will have to separate all the other transactions recorded in it from the particular lands and transaction, and name for which he is searching, a more complicated system than the present.

1725. At present the Names Index is only an index? Yes.

1726. And an index of reference to the abstract?—Yes; and to the original memorial and transcript.

1727. And the next process, when you have found anyone answering to the name you are searching against in the Names Index, is to turn to the Abstract Book and see if the person you want is the person who has done the act that is recorded in that abstract?—Yes.

1728. Does not your abstract contain the names of all the grantors and all the lands?—It does.

1729. And the names appear in it just as in Colonel Leach's plan?—Yes; but not in so good a form.

1730. The names of lands and of parties?—Yes.

1731. And therefore there is no more confusion in the one than in the other?—Except that the names and denominations are differently and more conveniently set out in our Abstract.

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1732. Mr. MADDEN.—Before you pass from the Names Index, let me ask you, as the result of this discussion, and to sum up your evidence, would not the practical effect of adopting Colonel Leach's suggestion, as regards the searcher be, that instead of having to consult a different book in order to find the abstract, he would get that abstract under the name against which he was searching?—Yes.

1733. I can understand what you say, that it is useless in a Names Index to give the names of other grantors, but with reference to the denomination of land affected by this Act, would it not be a great service to find the denominations with the barony and county stated under each name? Assume that the Ordnance Survey denominations are adopted, and that nothing is registered except against the Ordnance denominations with barony and county, and take it that I am searching George Jones for acts of affecting the lands of Blackacre, in the Queen's County. I take up the Names Index and under Colonel Leach's plan, I find under George Jones, the name in question, information which enables me to see whether any particular act affects those lands of Blackacre at once, is it not, therefore, of immense importance to have there and then confronting me the denomination?—No, because independently of the objection which attaches to the useless repetition of the Abstract with each grantor and each denomination, and the needless multiplication of entries and comparisons thereby necessitated, the principle of amalgamating the Index and the Abstract Book in the manner proposed is essentially erroneous, and instead of facilitating, would embarrass the work of searching. It would also delay too long the Index volumes in the hands of each particular searcher.

1734. But the effect of having the denominations stated after the names is this, at once to eliminate every deed by George Jones that does not affect the lands, would that not be an improvement?—In the case of one or two denominations this might answer very well; but where there are numerous denominations the area to be gone over by the mind is so much increased and enlarged that it must aggravate the labour of searching.

1735. Hasn't that labour to be gone over only under different conditions at present—that is to say, having in the first instance consulted the Names Index, have you not then to examine the Abstract Book?—Yes.

1736. And isn't it only a question whether the denominations are to be examined on the face of the Names Index, or afterwards after you have taken your reference to the Abstract Book?—Clearly. The abstract is certainly to be gone over in either case, but the necessity of a reference, though, is limited under the present system.

1737. The necessity of a reference under the proposed system would be obviated in every case, there would be no reference to an Abstract Book, and surely the labour of going through 17 or 18 denominations in the index and in the Abstract Book is the same?—It supposes that all the denominations there are dealt with, but if a single denomination only is searched against you read, and find it is not there at all, in that particular reference, and then you are remitted back, after all that trouble, to the abstract itself. Colonel Leach's system mixes up together two processes which, for the facility and safety of searching, should be kept distinct—namely, the taking of the references and the reading of the abstracts.

1738. Judge WALSH.—Suppose now that this draft is brought into you for the purpose of registration—putting memorials out of the question altogether—as I understand what you say is, that if that were the case the searchers that you have now would find greater facility to make their searches, and would be more accurate if you had a Names Index, in which you would find at Jones and Atkinson an entry which would refer you to this document (the abstract), which is brought in, and which would be the memorial?—Yes.

1739. And I further understand you to say that having regard to the present state of searching, that if this be the abstract that is brought in, there would be delays in searching, and perhaps greater mistakes, unless the present system of having an Alphabetical Index with the abstract were followed?—Exactly.

1740. I don't think you have quite caught what we mean—that we are not to have any memorial brought in from which the abstract has been made?—I don't quite apprehend still.

1741. The VICE CHANCELLOR.—Do you think that would make any difficulty?—Not having a memorial?

1742. Yes. Isn't the reference to the memorial now rather the exception than the rule?—Yes; where we have abstracts.

1743. And if the abstracts were continued practically in the same way as at present?—It would greatly expedite the reference.

1744. Would all your objections apply to Colonel Leach's plan still, in that case?—Yes, to the combination of the indexes with the abstracts.

1745. Mr. FINDLATER.—I don't understand yet what difference there would be—supposing you were searching against Jones for the lands of Blackacre, you say that facility would be afforded by the abstract book showing Blackacre as a particular denomination, but we are not searching against lands, but against names solely. What greater facility would there be in the present system than in this of Colonel Leach's. I could understand if the search was against lands, you know?—A search on names is a search against lands, because it is a search against, say, Henry Browne, for acts affecting the lands of so-and-so, in the county of so-and so, in the barony of so-and-so. Every search upon names is a search, so far, against lands also, but it is not an all act search. You make it upon a different principle from what you make a search in the Lands Index, but it is actually a search against specific lands.

1746. How is it easier to search upon lands in that abstract?—The first difficulty is that you have to wade through a number of names in order to find the particular name that you want to reach. That is number one, and that would create a serious difficulty and great delay, because we have to investigate thousands of abstracts each day. Well then, that labour being gone through, you have a second labour, arising from the construction of the abstract, from the very same cause. You have to read through all the lands in that abstract in addition to all the names, to see whether the particular denomination of land against which you are searching is in it.

1747. The VICE-CHANCELLOR.—Haven't you to do the same now by reference to the abstract?—No, because if I am looking for the lands of Blackacre, I find them at once under the present system.

1748. Suppose a search against John Atkinson for acts to affect the lands of Diamond, in the parish of Templemore, county of Londonderry, you first proceeding now would be to take the Names Index, and find "John Atkinson"?—Yes.

1749. You would then see added to that the county in which the lands to which that particular act refers are situated?—Yes.

1750. So that so far you go towards weeding out the wrong John Atkinsons?—Yes.

1751. But then you must look to the Abstract Book, to the entry which appears in connexion with the entry in the Names Index, and you read down through all the names in the Abstract Book, both of names and of lands, and see whether the John Atkinson you are searching against is the John Atkinson that is mentioned in the names of grantors in the index, and then turn to the next column, and find whether the lands are the lands contained in the abstract; but what Colonel Leach does is to show that to you at a bird's eye view, and without going to another abstract?—Still the first objection remains valid—the objection of

having to read through a larger number of names than is necessary.

1752. On his plan you have an assurance, supposing the Index to be correctly constructed, that in every entry the name of Atkinson is to be found; therefore all you have to do is to run through the Index and find the christian name, see if the full name corresponds with the man against whom the search is made, then go a little further down and find the name of the lands and where situated, and thus you have the Names Index and the Abstract Book all in one entry?—Yes, but why is a searcher to read other names than those he is searching against?

1753. Would he not have to do the same if he turns to the Abstract Book?—No, owing to the defectiveness of Colonel Leach's Index

1754 Judge WALSH.—It appears to me that the only advantage of your system is that you get them segregated in the first instance?—Yes; it separates the transactions, and facilitates the operation of searching against any particular act.

1755 The VICE-CHANCELLOR.—Under which do you think there would be greater safety and expedition—looking to the present Lands Index, finding the name searched against, shutting that book up, proceeding to the abstract referred to, looking at that abstract and examining it; or reading through all the names that are in this (Colonel Leach's Abstract) in order to find out the right name, which found gives the information to be got in the abstract at once?—There is no doubt that the experience of the office is decidedly in favour of the first, as being the more simple and satisfactory to work upon.

1756 Mr MADDEN.—But they have had no experience of the other system?—They have had this plan before them for nearly twenty years, and know it much better than I do, and the general feeling is in favour of having the Index purely an Index of names, giving the county in which the lands are situated and some particulars that would identify the reference and an alphabetical Index of lands as at present What is done is this—you don't go to that reference at once, but you make an analysis of the requisition, and having taken down every reference in it you are done with the Names Index, and then you commence the regular course of inquiry through these abstract books, and half a minute at most will satisfy the searcher that the particular reference there is the one he requires. The searchers think, that if they were obliged to read this catalogue of names, and to read in its entirety the whole of the transaction, they being only inquiring with regard to a part, and a limited part, that it would increase the labour.

1757 What is the average number of names to an act?—They say four. No doubt in some cases there are fourteen or fifteen, but the average is put down at four.

1758 Mr FINDLATER.—Surely reading through the names in Colonel Leach's plan would be just equivalent to your going to the Abstract Book to see the different names, and yet you say it would increase the labour.—The labour of searching now is in this way divided—the first process is to take down the references, then the labour of the search in connexion with the Names Index is at an end, and the searcher's mind is completely relieved from the Names Index thenceforth. He begins then with the first reference in his list, and he takes the Abstract Book and looks for that reference, and he then goes through the whole of the Abstract Books to which the references relate. But the labour would be concurrent by taking both processes at one and the same time, under Colonel Leach's plan, and I consider that more difficult, dangerous, and burthensome to the mind of a searcher, than going through the Names Index first and going through the Abstract Books subsequently.

1759. Judge WALSH.—In Colonel Leach's plan you have Atkinson, and in large type the county, that would surely facilitate the searcher?—Giving the county would shorten it, of course.

1760 The VICE-CHANCELLOR.—But does that not appear on the Names Index also?—Yes Suppose you were to look for an act against Abbott, consider all the names you would have to look through there (sample given in Colonel Leach's book), whereas, if you were looking for Abbott in our Names Index you would get it at once.

1761 Judge WALSH.—But you search for Abbott concerning the lands of Gurtheen, in the county Tipperary; would not the name of the county there—given prominently—assist the searcher?—Of course.

1762 The VICE-CHANCELLOR.—Let us come to Colonel Leach's proposition about the Lands Index. Do you think the same objections would apply to the construction of that Lands Index?—I think so, and if possible in a stronger manner, because the lands are arranged, as you are aware, under alphabetical order in each county, barony, and townland. If you are searching against any one of those denominations you will find any act between parties that will particularly affect these lands You take down the reference and you go to the Abstract Book where you find the lands in question.

1763 I see by the form of the Lands Index that it contains the name only of the first grantor where there are more than one?—Yes.

1764 And the name of the first grantee only?—Yes

1765. It says simply "Earl of Bessborough and others to Earl of March and others?—Yes, that is the form, and it was adopted advisedly. At one time all grantors were given, and it was found that it increased the books too much.

1766 Judge WALSH.—And they would do what you object to in Colonel Leach's Names Index—burthen the searcher's mind?—Yes.

1767. The VICE-CHANCELLOR.—In the case of a search say against John Smith to affect the lands of Ballynagall, where you find "and others" in the Index, it involves the necessity of looking to every entry against that denomination of land through the whole of the Lands Index?—It has that effect where "and others" appears.

1768 Would it not be a great convenience that suppose you took the townland as a unit and entered that particular townland as the head of an account, as I may call it, in your book, on reference to that denomination there should be found in consecutive order every act that has been done say within the period of the books, ten years, against that particular townland, without further reference?—How would that diminish the labour?

1769 In the first place it would render going to the Abstract book unnecessary?—Yes, but in all other respects it would be the same

1770 And it would be a great diminution of labour in consequence of all the names of grantors not appearing there, instead of looking to every abstract you would there have every act affecting the lands, and in a short space of time you could find any particular act done by any particular person?—You would have to read the abstract in any case to find out who the grantors are I don't see that the labour would be greatly, if at all, diminished. Though you dispense with the reference to the abstract books, in all other respects you must read the same amount of matter.

1771. Would it not be a great convenience in ascertaining title to see all the dealings that were entered upon the Registry within the current period against that particular piece of land?—That is to have all transactions entered up there—all grantors and grantees?

1772 Quite so?—That would be constructing the Lands Index on a different principle altogether.

1773. You have them all here now commencing with "Aa," and you have a great number of entries against the same denominations of land on the same page without classification or arrangement?—Yes, alphabetical arrangement

1774 And you have to take them out in the abstract

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book?—They are posted into the Lands Index from the Abstract Book in proper order

1775. Then you must see what the reference is to the abstract book in the Lands Index?—Yes

1776. And take down every abstract book that corresponds with that reference to see if the act you are searching for is comprised in that book, reject all that are irrelevant, and note in your search all that is comprised within the requisition?—Yes.

1777. Would it not be a great convenience if in place of that you had a separate account opened for each townland?—That is the search sheet

1778. Either the Scotch search sheet or Colonel Leach's plan—the two are very similar. Take the case of the townland of Ballynagall, parish of Kilbride, county of Waterford, Colonel Leach would enter under that heading every act from the commencement of that series of books down to the expiration of it that affected that particular denomination?—The Lands Index does that

1779. Not on a synoptical view?—I did not understand him to mean that, he would bring them all in point of fact under that heading consecutively and in connexion with no other townland?

1780. Yes?—That would be something in the nature of a property Index, to which there are insuperable objections

1781. Would it not amount really to a registry that would contain all the advantages of the record of title, without its disadvantages—or many of the advantages of the record of title, without its disadvantages, in which you would be able in one view to see all the acts upon the registry, within a given period, affecting that particular piece of land?—That is a question I would like to consider before committing myself to an opinion upon it.

1782. Perhaps you would like to send us your opinion in writing?—Yes, I would prefer to do so

1783. And perhaps you would also consult your officers on the subject?—I would consult with them before sending in my written statement

1784. You will see that it is not so important to get concisely all the acts of A. B affecting a variety of lands throughout the country as to get in one page or in one account on the Registry all the acts that affect a particular piece of land, no matter by whom?—Quite so. It appeared to me on reading this (Col. Leach's plan) that it would have the effect of delaying very much the construction of the indexes. An abstract is to be the foundation of the system, the whole system almost, and our Abstract Book is the book which, as you are aware, is somewhat in arrear at present. Our present Abstract, which is a less complicated book than this would be, is behind from twelve to fourteen days, while the Day Book, from which the Names Index is constructed, is up to time.

1785. Mr. MADDEN.—But your Abstract now is compiled in the office from the memorial?—Yes

1786. Assume, though, for a moment, that under the new system the abstract is lodged with you, would there be more or less delay?—In other ways it would tend to great delay.

1787. The VICE-CHANCELLOR.—I would wish that you should not be under the impression that we have formed an opinion that it is desirable to discontinue the Day Book.—we may be of opinion that the Day Book should be continued for the purpose of constructing the Names Index as at present, so as to keep it up to the day as now, but to construct a Lands Index probably upon the plan proposed by Colonel Leach, or some modification of it—we may recommend that the abstract should be prepared before the deed is brought in for registration and entered by you in your Abstract Book, instead of requiring you to prepare it yourself from the memorial?—Would there be any official responsibility for the accuracy of that Abstract Book?

1788. That is a question we have not determined.—Because if it was to be revised in the office it would tend to delay, while if we could start from it as a reliable document it would save time

1789. The Commissioners may recommend that the abstract prepared and brought in by the party registering should be the the document upon which you should work, and that you should not be responsible for the accuracy of it, your responsibility would, under such circumstances, only commence from the getting of that abstract? That would be of some advantage to the office, and would, perhaps, assist the keeping up of the Lands Index, but will it be reliable?—I doubt it.

May 7, 1879.

Mr. Michael F. Dwyer.

MAY 7, 1879.

Mr. MICHAEL FRANCIS DWYER further examined.

1790. Mr. MADDEN.—In the Names Index, as it is kept now, Mr. Dwyer, the only column for local description is one in which the county is stated?—Yes.

1791. And therefore, when you are making a search for all acts of John Ryan, affecting the lands of Blackacre, barony of Elhogarty, county Tipperary, you return, in the first instance, every act of John Ryan in Tipperary?—The searcher takes down the reference so.

1792. Supposing there was a barony column added, then you would only take the reference to acts affecting Elhogarty, which would limit the number considerably?—It would reduce the number of references to be taken down.

1793. And the only counterbalancing disadvantage would be the necessity of making the additional entry in the case of each registration in a different column?—Yes

1794. Isn't it the case that the number of deeds that comprehend lands in different baronies is not a large proportion?—Well, it would represent a large increase of labour. On an average, I should say, every third or fourth deed, perhaps, will contain more lands than in one barony.

1795. The VICE-CHANCELLOR.—Do you think, Mr. Dwyer, that the advantage to be gained by putting in a barony column, in the way of taking down references, would counterbalance any disadvantage arising in making up the Names Index?—I have inquired about this, and I understand not. I think it would continue to be the rule that searchers would take down all the references to the county for this reason: they frequently find mistakes in the requisitions as to the baronial situation of the lands against which a search is directed, and those mistakes are detected by the acuteness and skill of the officer.

1796. Mistakes arising from an inaccuracy in the requisition?—Yes, and frequently in the memorial too. Something was tried like what Mr. Madden suggests, and had to be abandoned. In the Names Index a column was inserted for the first denomination in the deed of the lands, and that had to be discontinued owing to the experience which the officers had of the great delay and difficulty it gave rise to in the construction of the Names Index, and for other reasons.

1797. Judge WALSH.—And that would be very misleading; it is not like what Mr. Madden suggests at all?—It was, no doubt, misleading, but I mentioned it to show that the introduction of a single additional entry after each act in the Names Index will, in the course of time, considerably increase the labour of making that Index, which must be an Index completed and checked and up to time, thoroughly reliable as to every entry in it within forty eight hours.

1798. The VICE CHANCELLOR.—The Index you rely upon as keeping up to time is the Names Index?—Undoubtedly so.

1799. Therefore any delay in making it out would be attended with greater disadvantage to the public service than delay in the Lands Index?—Yes; and it would lead to great delay both among outside and official searchers.

1800. Judge WALSH.—You said the introduction of a barony column would only diminish the number of references to be taken down, but would it not, in that way, greatly facilitate the work of the office?—The opinion in the office is, that it would not materially diminish the labour or expedite the making of searches. I asked the question to-day in the office, and the answer was that it would not materially accelerate the making of a search. After all, these references are very quickly taken down.

1801. The VICE-CHANCELLOR.—I presume that an experienced searcher will run very rapidly down through the Index, and catch at once any entry that may possibly bear upon the requisition that he is working on?—They do it with extraordinary rapidity and safety.

1802. And therefore the saving of a number of these references would not be a substantial relief?—Much less than would appear to a person not actually supervising the work as it is done there. At the same time, it would, no doubt, have the effect of reducing the number of references to be taken down.

1803. Mr. MADDEN.—All doubt as to the baronial situation in giving the situation would be removed once we adopt the Ordnance denominations?—The error is in requisitions given in by the solicitors. It constantly happens, for instance, that the name in the requisition is quite differently spelled, and will be found in a totally different section of the Index books, and if we were to follow the requisition we would leave out acts that would affect the lands and fall within the purview of the requisition, though strictly and legally outside it; this appears by our Searchers' Query Book.

1804. Judge ORMSBY.—Then, if a solicitor gave you a wrong barony in the requisition, and you had this barony column, you might miss the act altogether?—Clearly, that would follow.

1805. Judge WALSH.—But is it not the same now? You take down all the acts of John Ryan, in the county Tipperary, and then, going to the County Lands Index, you refer to the barony of Eliogarty?—We do not refer to the County Books when searching on the Index of Names.

1806. Mr. MADDEN.—But assume the Ordnance Survey denominations to be adopted there never could be any doubt as to what barony a certain Ordnance denomination was in?—Solicitors will make mistakes in heavy abstracts, I entertain no more doubt of that than I do now of my existence. Remember you have sometimes to deal with as many as 200 or 300 or more denominations of land in different baronies, in different counties of Ireland. Such abstracts will be prepared by competent solicitors with so much care and caution that there may be few mistakes—every denomination may be assigned to its proper barony and county; but in a large class of cases that come in the same care will not be bestowed upon the work, and mistakes will be frequent enough. When we come to make out our Abstract Books at present from the form of memorial drawn and brought in with the deed for registration we find sometimes the denomination of land laid in one barony in the memorial, and in quite a different barony in the deed itself. And if you come to work out the idea of the abstract prepared outside the office I am clearly of opinion, and all in the department that I have spoken to, are deeply impressed with the conviction that these mistakes as to the assignment of land, in large deeds, to particular baronies, will be a source of frequent error in the Lands Index. It won't affect the office, for, as I understand, we are not to be held responsible for any mistakes in this Abstract; but it will greatly prejudice the interests of the public. Now the Lands Index is a perfectly reliable record, the office being responsible for it so far as the deeds and memorials enable it to be kept accurately, and when we cannot get the barony there we have our No Barony and General Index Books, and take other precautions against error or omission. But under the new system the whole thing will stand or fall upon the accuracy of an abstract, very often prepared by an incompetent attorney's clerk. We get now, as I have observed, some memorials prepared in a most careless manner; indeed it is sometimes most difficult for the experienced clerks to make the abstracts from them. I take it that the present memorials represent the future or proposed abstract, and if the abstract be a like document it holds out a bad prospect and one not at all in favour of the suggested alteration. My experience is that the less duty of a technical kind you impose upon parties attending the office the better it will be in the end. If they give us the materials we will make it (the abstract) all right and be responsible for making it right, and there never will be any serious error involving loss, but to leave it in unskilled and careless hands—in the hands of the common run of men attending the office—I am greatly afraid that innumerable errors and great difficulties will arise.

1807. The VICE-CHANCELLOR.—I asked you before, but I will ask you again, supposing that you had instead of the memorial a full copy of the deed to work from, and that the construction of the abstract was still left to the office, how do you think you would be able to accomplish it?—We could accomplish it no doubt with perfect safety and accuracy, but I am afraid we could not make an abstract so expeditiously from so large a document as the deed, as we can from a more concentrated document like the memorial.

1808. But still would it not be a much more reliable document than one made from the materials of what may be a very inaccurate memorial?—No, because we first compare the memorial with the deed to see that the statutory requirements are taken accurately into it from the deed. We have a guarantee in that comparison that so far as we require it the memorial is correct.

1809. Supposing now that the abstract to be brought in was to set forth all the statutable requirements and nothing more, and that it was still part of the duty of the office to ascertain the accuracy of that abstract by checking it with the deed would not all the particular objects of the Registry be attained?—No doubt; but if I am correct in my apprehension as to the unfitness of most of the outside hands to make the abstracts, which are technical, the result would be the rejection of them, and, therefore, a refusal to register, in innumerable instances.

1810. Judge WALSH.—Have you not to do that with the memorials now when incorrect?—Not in the same number of cases, for there is no tabular arrangement of lands or classification of parties. It will be required under the new system, I hope, that each denomination must have its barony and county assigned to it. That being done there will be no difficulty on that part of the case; but assume that we are to enter grantors and grantees there a difficulty will, beyond doubt, arise, leading in innumerable instances to the rejection of the deed from registration, owing to defects in the abstract, for outsiders cannot, in complicated cases at least, distinguish who are grantors and who grantees. That is when seven or eight interests are dealt with by seven or eight parties, in many cases they will not be assigned their proper places, either as to the dealing with the lands or in relation to each other, and then we must reject that.

1811. The VICE-CHANCELLOR.—Is the duty of making out that now imposed upon the office?—It is.

1812. And is that not imposing upon the office what is really the duty of the person bringing in the deed for registration?—I think not. Under the Act we are responsible for entering in our Names Index

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the names of all the grantors; and we are to discover, from reading the memorial, who those parties are. That is a duty imposed upon the office by the Registry Statutes.

1813. What is the practical objection to throwing that duty upon the party bringing in the deed, at the same time allowing the check that exists in the comparison of the memorial with the deed, to continue by comparing the abstract with the deed?—All we have to ascertain now is, that all the parties in the deed are in the memorial, quite irrespective of their relations to one another, or to the deed and subject matter of the deed; but under that proposed system you would have to ascertain that all those parties are put down in their proper position, both in respect to one another and to the subject matter of the deed.

1814. That is to say, you would have all the grantors in a column for grantors, and all the grantees in a column for grantees?—Yes. That is a work that is not undertaken now until after the deed is registered. There is no delay, consequent, upon the assignment of all those parties to their proper places and functions in the deed. That does not interpose between the bringing in of the deed and the registration, but takes place after it is registered.

1815. What is the process now if, after the deed has been formally registered, the memorial is found to be defective in the statutable requirements?—It cannot be found defective, because it is subject now to a preliminary comparison.

1816. Judge WALSH.—But you assume that the responsibility, under the proposed system we will call it, would be thrown upon the office in the event of there being a variance between the abstract and the deed?—No. But I say that the preparation of the abstract not being thrown on the office, will make it an erroneous basis to work on.

1817. The VICE-CHANCELLOR.—Why so? Explain that to me?—If the abstract is brought in, and without revision upon our part—if its construction is thrown upon the public, and it is brought to us as the document out of which the Lands Index is to be made, it may happen, say, that a denomination of land will be described as lying in the wrong barony, and probably in the wrong county, or the name of a grantor be omitted. These errors will be transferred into the Lands Index, and will, so far, vitiate it; whereas, at present the abstract being prepared by us, and being also the foundation of the Lands Index, will be guarded against mistakes of that kind, owing to the superior capacity and care bestowed upon it.

1818. Judge WALSH.—But you would have the same power of correction in the future as in the past?—We only reject from the memorial all that is unnecessary, you will still have the grantors, and grantees, and denominations. In fact, the only difference will be that it comes to you in a smaller shape than the other; but you will still have to check it against the deed; and then, instead of making what you call your Abstract Book from the memorial, you will make it from that. I understood that the office was not to be responsible for the accuracy of the proposed Abstract. A case just occurs to me which will illustrate what I mean, with respect to the advantage of a Memorial over a Tabular Abstract. On Saturday last a deed was brought in for registration, and the memorial contained recitals of the lands acted upon by the parties, and it gave the lands and their local situation *nominatim*, but in the operative part of the deed some of the lands were omitted. We were able, from the material in the recitals, to supply the matter omitted in the operative part of the deed—that is the local situation. That gives some idea of the value of the fuller information contained in the memorial than in the abstract. If we had been limited in that case to an abstract pure and simple, we could not have registered the deeds against the lands whose local situation was not given.

1819. The VICE-CHANCELLOR.—But is not that throwing a duty on the office that ought to be performed by the person who prepares the memorial?—No doubt it is.

1820. And is that part of the original system in your opinion?—But it prevents any public prejudice.

1821. At the expense of labour to the office?—Yes.

1822. Judge WALSH.—But, suppose you did not do it, would the office be responsible?—No; it would be quite free from responsibility, and I am only stating this to show the unfitness of the public to make these abstracts.

1823. The VICE-CHANCELLOR.—That you do the duty of others, and supply the deficiencies of others?—Yes. The public must pay the solicitors for getting the work done, or they must pay the office. To them (the public) it would be the same, very much minus the advantage of having it done in a better manner.

1824. Judge WALSH.—The best way, probably, would be to bring in with the deed for registration a verified copy, and let you work from that?—There would be no objection at all to making the abstract from a verified copy of the deed. It could be done as effectually, no doubt.

1825. The VICE-CHANCELLOR.—Better, don't you think?—Yes; better. The proposed abstract is sure to be unreliable, and even the present memorial is sometimes so short and defective that we have difficulty in determining who are grantors and who grantees.

1826. Have you formed any judgment upon the question as to what additional labour the doing it from the deed would involve?—I think the Chief Clerk would be more competent to answer that. It can only be answered very approximately, but it occurred to me that the deed is more than half as long again as the memorial, even in ordinary cases, and in heavy cases it is five times longer, perhaps, and that would be the proportion of increased labour. But the great labour would be on the Comparison and subsequent Transcriptions.

1827. But the original intention of the Statute of Anne, which has never been by any statutable provision departed from, was to confine the memorial to what is now really the abstract?—And for the purpose of registration the memorial might be and ought to be very short.

1828. And suppose it is the opinion of the Commissioners that we should bring back the memorial—still calling it a memorial, if you like, instead of abstract—to what was the original intention of the legislature, do you think it would be attended with any practical disadvantage?—None in the world for the purposes of registration; but for other purposes, unconnected with registration, such as secondary evidence, or a means of information to the public, it would.

1829. But these would be attained more effectually than at present by having a copy of the deed lodged, not for registration, but for secondary evidence and information?—Yes, that would be making the department a Deeds Repository as well as a Deeds Registry. But the memorial, I quite agree, might be very short, indeed, for all the purposes of registration.

1830. In fact, I understood, that all your objection to keeping it to the bare statutable requirements was the difficulty of distinguishing grantors from grantees?—Yes; and also the difficulty of having it prepared outside correctly in tabular form.

1831. Could you not compare it with the deed as you now do the memorial with the deed?—Certainly we could.

1832. Mr. MADDEN.—There would be no difference between the present and the proposed systems, as far as the lands go, the only difference would be as far as the grantors go?—Yes.

1833. Then at present, as you say, the duty is cast on the office of determining, as a matter of law, who is grantor and who grantee?—Yes.

1834. But under the new system a man would, at his own peril, say, "I wish you to register this against so-and-so, as grantors," and if one was omitted it

would he unregistered as against that grantor?—Yes

1835. You do the work now, and therefore there is not the same care taken by the solicitor, he knows that you will set matters right if they are wrong, whereas under the new system he will know that you will merely take his statement and register the deed as an act against every person he states to be a grantor; don't you think that that will induce to greater accuracy and care?—It ought to do so, no doubt. That would, no doubt, he the tendency of it—whether it would be effectual or not would be a different thing.

1836 Judge WALSH.—Don't you discover all those mistakes when you are making out the abstract from the memorial?—We discover them first when we come to construct the Day Book

1837. How can you discover the position of the parties unless it is from something written on the document?—Of course not

1838. Therefore, at present, if the memorial is wrong you would he misled by it?—Yes, if a party is left out, or if anything is left out. But the memorial will only give the names of all the parties It is no part of the duty of the solicitors, or of the comparers who examine the deed, to determine who are grantors and who are grantees The comparers don't examine the Memorial with the view of deciding what the ultimate position of the parties is to be in the Books The deed assists us in making the Names Index, because it is not given out until the Day Book is made up; but it gives us no assistance in making out the Abstract Book, which is the foundation of the Lands Index. It is only available as an aid to the memorial, while we are compiling the Day Book.

1839. The VICE-CHANCELLOR.—As to the paper you were kind enough to send us, I pass on at once to the portion relating to the Index of Lands; you say that "It would be necessary to open a separate heading for each of the 63,000 townlands in Ireland, and also for each street in a city or town," does that assume that when you are opening your books, you should at once, before any acts come in to be registered, open these headings?—It does

1840 But supposing that instead of your doing it in that way you were, as each instrument came in to he registered, to open a heading for each townland comprised in that instrument, would not that leave the matter, as regards the number of entries the same as at present?—But would that not involve us in great difficulties? In fact it could not be done A place should he appropriated to every townland in Ireland when the Books were being spaced

1841. That is what I want to know; the objection is that "It would be necessary to open a separate heading for each of the 63,000 townlands in Ireland, and also for each street in a city or town," and that at present all you have to keep is about 8,700 different headings?—Our system now, is, that the books are opened upon the principle of a county and baronial arrangement—a book for each county, and a heading in that book for every barony—and as the deeds come in we place the denominations of land alphabetically under the proper baronial heading What occurred to me then, was, that we should have a similar arrangement, if the townland is to he adopted as a sort of unit—that it should be worked out on the same principle, only in a more subdivided form.

1842. Then you think it would he necessary for the working out of that plan to commence at present a series of hooks to contain the headings of each townland?—Yes; I think so, and in dictionary order, too

1843. Judge WALSH.—The books would he much smaller?—No, but both more bulky and more numerous I am afraid, too, that in the case of some townlands we would have only one entry, whereas, as regards others, blocks and transfers might arise from the entries being so numerous

1844. The VICE-CHANCELLOR.—I suppose you experience that difficulty, if we may call it such, at present?—Yes, in a small degree; but we would he subjected to it in a more aggravated form if the townland was adopted as the unit

1845. Your opinion is strongly in favour of having the Abstract Book as the book to be referred to by the indexes, and keeping the indexes as indexes proper?—Indexes in the strict sense of the word, with one book common of reference to both.

1846 To which they both refer?—Yes, by identical numbers, by which means they can be looked to with extraordinary ease and accuracy.

1847. On what principle is your Abstract Book at present prepared—is there any classification, or are they all put down in chronological order?—In chronological order and number

1848 As the deeds come in?—Yes

1849. Mr. MADDEN.—Your opinion in favour of having a reference to the Abstract Books, and not having the abstract from the index is a good deal founded upon the fact that otherwise a person who is taking the abstract would have to take the index?—Yes, until the search is made

1850. But suppose that printing was adopted, and the indexes multiplied, that objection would disappear to a great extent, would it not?—Yes, but it would appear to me to be unscientific, as unnecessarily multiplying books, when one hook can he made to serve all purposes It would he a waste of labour, while the process of searching would not be improved by it

1851. The VICE-CHANCELLOR.—Practically speaking, is one copy of the abstract sufficient for the working of the office?—Ample They are very small hooks, and nobody ever experiences delay—neither the outside nor the official searchers

1852. [An Abstract Book a Decennial Consolidated Names Index (a) and a Lands Index (county Leitrim) were submitted, and manner of working on each explained by the Registrar and Chief Clerk.]

Mr. DANIEL O'CONNELL FRENCH, examined.

1853. The VICE-CHANCELLOR.—You are chief clerk in the Registry of Deeds?—I am.

1854. How long have you been in that office?—For twenty-eight years this month.

1855. And how long chief clerk?—Since 1870. I was assistant chief clerk from 1866 to that year.

1856. Have you been a searcher in the office?—I have been.

1857. And have had a great deal of experience in all the different branches of business and books there?—I have

1858. Were you ever engaged in making the registry—preparing abstracts and indexes?—I was I have been at the Day Book, at the Abstract—and at the Names Indexes.

1859. Have you considered the suggestions contained in Colonel Leach's pamphlet as to the construction of an index?—I have.

1860. First of all, as to the Names Index, do you think his would he an improvement upon the present?—I don't think it would, but quite the contrary.

1861. Be good enough to state your objection to his proposal as regards the Names Index?—I should have our index. (Handed book) This is the Consolidated Parties Names Index—the best Names Index we have according to our present system

1862 What index do you call it?—It is the Consolidated Decennial Index of Names in double dictionary order of Christian and surname

1863. Is that a book kept according to the present system of the office?—This is a book made at the end of every ten years. I want to search for the name of

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John Atkinson for a period of ten years according to this book, and I turn to the name "Atkinson," where I find all the John Atkinsons occurring on the Registry for that period of ten years, together, and in one column There are sixteen of them. I am directed to search against John Atkinson for all acts done by him in the county of Armagh to affect a certain townland I find that there are nine of the sixteen names there having reference to Armagh, and I note the references, go to the Abstract Books, open them, see if my land is there, and then my search is completed at once That is nine abstracts I have to go to On Colonel Leach's plan, as it is here (refers to Colonel Leach's plan), premising that there are 240 abstracts referring to that name for the same period of ten years actually registered, I would, according to this plan, have to consult every one of these 240 abstracts to see if my parties or lands were in it. Here (the Office Index) I have only to consult nine.

1864. Why would you have to consult 240 on his plan?—Because he does not throw the Christian names into dictionary order, and I would have to go through, not alone in those 240 abstracts, all the Atkinsons—that is, looking for John, I must also read Henry, William, Charles Atkinson, and so on—but, further, I would have to read John Ward, Charles Shaw, Alexander Shaw, and all other names associated with the "Atkinson" against whom I was searching in each transaction.

1865. Because in his plan the name of John Atkinson is found in connexion with all these other names in the same entry?—Just so, and I would have to refer to the 240 abstracts for the particular county, and would have to read the full abstract which would be confusing, and troublesome, and puzzling.

1866. Mr. MADDEN.—But this (Colonel Leach's) is a Concurrent Index while yours is a Consolidated Index?—We could not make a Concurrent Index on this system, it would be too dangerous

1867. But you are comparing what Colonel Leach proposes as a Concurrent Index with a Consolidated Index, and you can only keep double dictionary order in a Consolidated Index,—you are comparing two different things with each other ——

1868. The VICE CHANCELLOR.—Does Colonel Leach propose to have any such thing as a Consolidated Index?—No, he does not at all, and I think we are entitled to show our best Index as against his Even our Concurrent Indexes are, I think, better than his, because we give in these the name of Atkinson without any others, and in no case are our Indexes encumbered with an abstract

1869. The advantage that this Consolidated Index has over the Concurrent Index is that it gives the Christian names in dictionary order, in addition to the dictionary order of the surnames, so that you can immediately find out in one class the person you are searching against?—Yes.

1870. In the Concurrent Indexes you only find the particular surname, and you have to go through them all to find the particular Christian name?—Yes; and under Colonel Leach's plan you have to go through not only the particular surname but all other surnames in the deed. Besides his is a clumsy form, while ours is so clear that "he who runs may read." In my opinion this (the Consolidated Names Index) is the most facile and easy of reference that any one could possibly work upon.

1871. What is your opinion about his plan of a Lands Index?—To work it, I take it that one would have to open headings in dictionary order for every single townland on the Ordnance Survey list. To do that with the pen, and to keep the Index written up, would be impossible, and as to printing I know nothing practically

1872. In his plan isn't it proposed to make what is now the full contents of your abstract, an entry after every particular act in this Index?—Yes; here is Ballynagall (and curiously enough no barony is given) in Waterford, but I have also in the same abstract Ardneen What is that to me? I only want to know about Ballynagall on that page of the Lands Index and nothing else. The delay in reading one irrelevant entry might not be great, but supposing there were ten other denominations of different names, what would be the use of putting them all down there under the heading appropriated to Ballynagall?

1873. The advantage of this is, it saves the consulting first of an Index and then of the Abstract; it is a combination of the two?—It would be more troublesome and more perplexing than our present system—infinitely more so. Repeating the Abstract over and over again is useless, and it would be impossible to do it by writing and to keep the books up within months.

1874. Here is the case of an entry according to his plan under the name of Richard Atkinson. You see the number of denominations of land under that Act?—This is on the Names Index

1875. Yes, there are forty-two different names there?—Yes

1876. And if you wanted to find an act of Richard Anderson with reference to any denomination, you have to go through the forty-two names to ascertain that?—Yes.

1877. And in your Indexes you will get at one view the acts of John Atkinson?—In our Names Index—yes. In our Lands Index I will get my particular townland It will not always happen that John Atkinson will be the grantor that will appear opposite to it, however, because we only put the first grantor on our Lands Index. We tried to put them all on at one time, but found that it blocked our books and delayed us too much.

1878. If you find Ballynagall in your Lands Index, how do you find that it is not the act of a particular man that you are searching against?—I will explain that. I am searching, say, for acts affecting Ballynagall I go down the lands column, and each time I find Ballynagall I see whether that corresponds with the party I am searching against or "others." Having taken all my references I then go to the Abstract Book and see if the party I am searching against is one of the grantors joined in any of these references. I refer from the Names Index to the Abstract Books for the lands, and I refer from the Lands Index to the Abstract Books for the names, when I have found them on either Index

1879. Then, when in the Lands Indexes the name of the first and sole grantor is not the party in the requisition against whom you are searching, you have to refer to the Abstract?—Oh! no; when "and another" or "and others" follows his name.

1880. That must add, of course, greatly to the number of the references you have to take down and make in the Abstract Books?—It does, it is a more troublesome Index than the other, but it is less used

1881. Would not that additional trouble correspond very much with the additional labour that would be required in writing up all the grantors?—No; to write in all the grantors would throw the Index back months We can keep it well up to within three weeks now, and when we tried the writing in of all the grantors it was seven, eight, and nine weeks in arrear. It would, besides, be making this a Names Index as well as a Lands Index, cause transfers, and make the books too bulky.

1882. Do you think that the plan proposed in the pattern shown as these of Colonel Leach's system, that it is a desirable thing to have the lands entered in the form given there, instead of in columns, as in your own indexes?—I prefer our own indexes much. It is far easier to run down and across a column than to follow his arrangement, or rather, want of arrangement.

1883. Would not the entering of the abstract, supposing the thing were to be done in manuscript, in full as against each name of the person, and also against each name of the townland denomination, cause delay that would practically stop the working of the office?—It would greatly delay us. At present one Abstract

answers for each index, but according to Colonel Leach's plan you would want eight for that one, his own calculation being that there are 3 grantors and 5 denominations in each deed. I don't think the average a fair one. I think it should be more. But to enter the hooks up to time, even on his average, with the pen would be impossible—our books would be in such an arrear that the office would become practically useless for all purposes. The interval between the time they could be kept up to and the current time would be so great that no search could be made with any satisfaction.

1884. Have you considered the system of search sheets in Scotland?—I know very little about them, but they seem to be very much the same thing as Colonel Leach's Lands Index. They go even further than Colonel Leach, whose unit is a townland, for they divide their houses into flats—cut them up into little bits. For instance, you have here "house on second flat, upstairs, No. 2 Baxter's-place"—(refers to Scotch search sheet)—You might have one hundred houses in that one street.

1885. How, at present, do you arrange your Lands Index with reference to towns?—On the streets only; we pay no attention to numbers, for they are changeable.

1886. Your first description is the parish?—The rule is rather lax as to that. They are entered with regard to the parochial situation in two cities—Dublin and Waterford—and in all other cases the streets are entered alphabetically only.

1887. And do you find it more troublesome searching against premises in a town than on lands?—Yes, particularly as regards premises situate in Dublin, Cork, or Belfast, owing to the number of acts done.

1888. Is there any means of improving the Registry as to those, that you can suggest?—No, I don't think that we should adopt a different system as regards the streets from what we follow as regards the denominations of lands. I don't see how we could.

1889. Mr. LANE, Q.C. (Secretary).—There is some difficulty at times in consequence of the changing names of streets?—Yes, but as to entering them by number, that would be most misleading—the numbers may change frequently.

1890 Mr. MADDEN.—Could you offer any suggestion as to improvements in the indexes?—I think that any suggestion that I could offer on that has been fully laid before the Commissioners by the Registrar already. As regards that book, for instance (the Lands Index), I would abolish the "parish" column. It is of no use whatever there.

1891. The VICE-CHANCELLOR.—Does it assist you in a search?—No, and if it were omitted it would give us more space. I would abolish that column also ("page of the day-book"). It is no use whatever, it is very misleading, gives trouble, and occupies the time of the clerk writing it up. If that was done it would assist in keeping the index more up to time.

1892. With as much assistance in the office as would be necessary, how near up to time could you keep the Land Index?—I am certain we could keep it up to within fourteen days. Of course, occasions will always arise when exceptional pressure will crop up. For instance, when the Church Body were lending their money, and landed proprietors were availing themselves of it, we had a run of work. It was not the mortgage deed alone, but every reconveyance or charge, came to us. Occasions of that kind must turn up, and then the Lands Index would go further into arrear, but we could, generally speaking, keep it up to within fourteen days, I think.

1893. Notwithstanding the pressure you have spoken of, were you able to keep your Names Index up to time?—It was never behind more than forty-eight hours, and frequently within the twenty four.

1894. Would you approve of a plan of having a kind of temporary registration, or stop file, on which, if a deed came in to you which, under the present practice, you would have to reject from inaccuracies in the memorial or want of the proper stamp being affixed, or defects in the affidavit of perfection—a stop file on which the deed should be considered registered temporarily, say for three months, in order to find time for the perfection of the instrument or the transaction on foot of it. Would you approve of a system of that kind?—I have not studied that, but I don't think I would. That deed would appear in the books meanwhile, like any other, and then if the registration was not completed, the entry of it would have to be cancelled somehow. I don't like alterations in our books, they are very objectionable, I think, especially when they tend to break the natural continuity of the indexes.

1895. No, it would necessitate the keeping of a separate book?—I don't like separate books at all. I would like everything to appear on the Names Index, the Lands Index, and the Abstract Book, as at present. I don't like separate books, and they would mislead the outside public. You should have everything in the office on the Indexes and the Abstract Books.

1896. But supposing that there was a book kept for this temporary registration pending the supplying of defects, and that when they were supplied the entry should be transferred to the ordinary registry?—But see what a separate book would grow to. You would have to keep a second set of as many volumes of a Names and a Lands Index as now, to answer that temporary purpose. That would not work at all, I think, and you would have to keep two sets of men at them, and then at the end of a certain period you would either have to cancel the entry or have to put it down upon the permanent index, in which event it would be out of its proper place, for three months would have elapsed. You could not leave spaces for those entries. That would never do.

1897. Judge WALSH.—Have you many instances now of satisfaction of judgment mortgages?—We have a few—they are not very frequent however.

1898. How are they entered?—On the Abstract Book, and upon the *Transcript* Book as well, and also upon the face of the act if returned on a search. On getting the certificate we don't take off the judgment—we leave it an act, and returning it we also return the certificate for what it is worth.

1899. Mr. LANE, Q.C. (*Secretary*).—You said you could keep up the Lands Index to within fourteen days?—Yes.

1900. Do you mean if the alias system is continued?—Well, under the present system, in ordinary times, I think we could.

1901. But the doing away with the aliases would greatly facilitate the work?—Oh, no doubt in the world.

1902. Mr. MADDEN.—Your objection to the provisional registration suggested is, that if the operation became absolute it would be in the wrong place, and that must be looked into very carefully; but the system of caveats would be a different thing altogether—it would be a step to preserve the contract binding pending the completion of the deed?—Just as you register a six-penny agreement now before you register a mortgage?

1903. Yes. That would not embarrass you, don't you think?—If you allow it to go through our ordinary indexes, as the memorial of a deed goes, it will not embarrass us in the least. If you give it in with grantor and grantee, making the party executing the agreement a grantor and the party accepting it a grantee, no difficulty would arise.

1904. Judge WALSH.—And if it is not carried out what would you do?—Give it existence, say for five or six months, and allow the parties to give it vitality again for another period, if necessary, by registering it again. It would be only of use as notice to outside parties. The Registrar should not be bound in any way by it.

1905. Mr. MADDEN.—Is there any inconvenience caused by the defective state of the books relating to back periods in the office?—No; there is no practical inconvenience, and as time goes on we are getting away from those very old books. When they want

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to be renovated we have one of our senior clerks always on them—a man who understands all the intricacies of the old books.

1906. The VICE-CHANCELLOR.—Isn't there an interval in which you had no abstract books?—Yes; the abstract books we use now begin in 1828. We have books prepared from 1708, I think to 1714, and from 1800 to 1828, but not compared.

1907. Would it be an important advantage to have that comparison made?—It would be a great advantage to have these later abstract books compared, but we would require skilled men to do it. The comparison of an abstract I look upon as the most serious work in the office.

1908. Judge WALSH.—But you don't want these very much; the statute of limitations will narrow the limits greatly?—The Registrar can tell you that we have searches going back to early periods, often.

1909. The VICE-CHANCELLOR.—Would it be worth the expense of having it now?—If our abstracts were compared back to the year 1800, or even 1820, it would be a great advantage, for we could then go back sixty or eighty years without a break in them.

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Mr William Read.

Mr WILLIAM READ, solicitor, examined by the O'CONOR DON, M.P.

1910. You are President of the Incorporated Law Society?—Yes, I have the honour to hold that position this year; but I give my evidence now at the request of the Commissioners as a private individual, and not as President of the Incorporated Law Society.

1911. I suppose you have had considerable experience in conveyancing and in the purchase of estates in the Landed Estates Court?—Yes, I have had a good deal of experience in that way.

1912. You are aware that to queries issued by the Commission certain answers have been sent in from the Incorporated Law Society?—I am.

1913. Do you concur in those answers?—I do; but as I am now to give my own individual opinion I would observe that there is one thing I have doubts about—that is on the subject of a registry by memorial or of the deed *in extenso*.

1914. Are you in favour of registering the deeds *in extenso*?—I am.

1915. I find that you have also sent in answers yourself personally to some of these questions?—Yes.

1916. From those answers it would appear that you were one of the profession who took an interest in the Record of Titles Act, and who in the beginning was anxious to support it in every way?—I was. There were a great many opposed to it from the very outset, but I was one of those who were in favour of the measure.

1917. Mr LANE, Q.C. (*Secretary*).—You were on the committee of the Incorporated Society of 1862?—I was.

1918. The O'CONOR DON.—Did you advise many of your clients to take advantage of the Act?—Yes, I have recorded titles several times.

1919. Could you give us any idea of the number of titles you have recorded?—It was only in the early years of the measure that I advised clients to record, and I think I may have recorded about eight or ten, not more. I recommended the provisions of the Act to several other clients, but they seemed not to approve of the measure.

1920. Up to what year might we take it that you acted in that way?—I have not recorded any estate or advised any estate to be recorded for the last eight or ten years.

1921. How long is the Record of Titles Act in operation?—I think since 1865.

1922. So then it was only in the first two or three years you recorded?—In the early years of the measure.

1923. What was it that caused you to change your opinion, and subsequently not to advise your clients to record?—Well, several difficulties arose in recording titles which I never anticipated. First of all when I began to consider the measure I was afraid that, as the office was then constituted, where there was only the recording officer and not a judge of a higher character to appeal to or to direct matters, and as many of the acts recorded were *ex parte*, there might be mistakes and errors (and these have as a matter of fact crept in) which would make the giving of an indefeasible title there inadvisable. Remember every act of the recording officer is indefeasible—you cannot go behind it whether it be right or wrong. At first Mr. Urlin was the recording officer, and after he went Mr. MacDonnell became recording officer; that gentleman, however, has several other onerous duties to perform as examiner to Judge Ormsby, and he is not in the Record of Titles Office as often as the public might expect the head of such a department to be.

1924. To whom are you now referring?—To Mr. MacDonnell—a very intelligent and excellent officer; but he could not be in two places at once, and having much to do in Judge Ormsby's office as his examiner, the result was that on many occasions people going to record found it difficult to get an interview with Mr MacDonnell on the subject.

1925. But has not Mr. MacDonnell been in that office only for a small number of years?—He has been there for some years—since Mr Urlin left.

1926. You gave up advising your clients to record long before he went to the office?—I think it was before he took over the department.

1927. Therefore his having gone there and having other duties to discharge could have had nothing to do with your change of opinion?—Well it might have prevented my advising clients since.

1928. May I take it that one of your chief objections is to the officer in charge of the department not being a judge?—Not a chief objection. I found by experience that there were legal difficulties frequently cropping up; for instance, one of the great recommendations urged in favour of the measure was that it would afford special facilities for recording different interests. That was all very well in theory, but on coming to work under it we experienced difficulties and obstructions that were never contemplated. Again it was stated that your dealings on the record would always appear in a very concise and short form—that a few lines of a deed would convey a property to another party, and that we were abolishing all long deeds and documents—whereas I found, even in Mr Urlin's time, that the very contrary was frequently the case. When that gentleman was recording officer a client of mine was getting an assignment of a recorded estate, and the deed was very long. Then there was a difficulty in executing that deed. Of course when every act done in the Record of Titles Office was indefeasible it became necessary to use every precaution, and several of the rules adopted in that regard to prevent any fraud or mistake occasioned an obstruction in the carrying out of the Act, which was thus not an easy thing to do. In the case of the deed I have alluded to it had to be sent to the gentleman assigning the property, to the north of Scotland. There was no solicitor there to witness the deed—which was necessary then to be done—and a gentleman had to be sent all the way there, at heavy expense, for that purpose. Things of that kind occurring, I found a difficulty in advising my clients to record. I saw it was a doomed measure, for it had become extremely unpopular, not only in my own profession, but also among the members of the Bar.

1929. Had the unpopularity of the measure with the profession something to do with your change of opinion?—Well, there were different things which, I think, might have improved the Act, but in con-

sequence of its not having been used more generally, these were never brought to the front.

1930. There was no desire on the part of the profession to facilitate the working of the Act?—No.

1931. And you don't think there has been any attempt made to discover what might be proper improvements in the measure?—Doubtless it was considered by a great many gentlemen what improvements would make the measure useful, and workable. At present the concurrent registry—one part of an estate going through the Registry of Titles Department, and another part through the Registry of Deeds is extremely objectionable, and may cause great confusion.

1932. But your Society has never devoted its attention in any way to suggesting improvements in the Act—they have rather condemned it as a whole?—It was before the Society as a Bill before it became law, and the Society considered very carefully the different provisions it contained, and sent forward objections to certain clauses, and suggested what they thought would be improvements in others. I don't know whether that document has been before this commission or not. That was done, however, when it was a mere Bill—before it passed as an Act

1933 I should like to know in how many instances within your own experience—where your clients have recorded—did you find difficulties in the working out of this Act?—Well, I found a difficulty *in re* Hastings' Estate. That was an estate purchased by trustees subject to the trusts of a settlement which was to secure a jointure to a lady, and after that it went to the father for life, with remainder to his son. That estate was recorded, and the young man, the son, who was the ultimate remainder-man went to New Zealand as a volunteer. He made a will just before going into action, which will was witnessed by two parties, one a brother officer The poor fellow was shot, and the will was sent over here to Ireland to be proved It gave and bequeathed everything to the widow, but there being no personal estate, it, of course, only dealt with the realty—the reversion I speak of. The widow was anxious to sell, and a client of mine was anxious to buy that reversionary interest, but when the vendor who was concerned for the reversioner, came to prepare a deed assigning over the interest to my client the present Judge—Judge Flanagan—raised a great many objections, and I believe they were very good objections In the first place he objected to the act ever being recorded, because the estate was vested in trustees without a power of sale, and he thought it was an estate which should never have been recorded, adding that if he had had a voice in the matter he would never have recorded it.

1934. Which was the estate that should never have been recorded?—The settlement of the lands in trustees to particular uses, without a power of sale. The Vendor had ultimately, after going to a great deal of expense, to go to the Probate Court. Judge Flanagan said "I cannot record the widow as the owner of this reversionary interest until you prove the will in solemn form." There was then an application to the Judge of the Probate Court to prove the will in solemn form, and he refused to do so because there was no personal estate Therefore here was this lady having a will in her favour—and the will was registered in the Registry of Deeds Office which was no use—and she could not get her title placed on the record, nor be declared entitled to the interest, which clearly passed to her. The result was that I had to proceed to remove the estate from the Record of Titles.

1935. In whose name was that petition?—In the name of the original owners.

1936. Was that not the case though of an interest getting on the record that ought not to have been there at all?—No, I think the difficulty arose in not being able to record the widow as the owner of the reversionary interest.

1937. And is that not a difficulty that would arise quite independent of the Record of Title?—No; I think if my client, the intending purchaser, had had the original will handed over he would take it that the estate passed to the party by the devise under it without probate.

1938. But might you not be subject to the same difficulties if, say, some of the tenants on the estate should have refused to recognise you—would you not then have been put to prove the validity of the will all the same?—We could not get probate of the will, which is only necessary for personal estate; but as far as real estate goes we could prove our title sufficiently. We would have gone into possession, and if any parties started up to say we were not the rightful owners that would only put us to prove our title.

1939. Is not that, however, a difficulty that would point rather to the necessity for giving facilities for an easy way of proving a will in case there is no personal estate, than an argument against the record of title?—That is a question I have considered too—in what way an heir-at-law or a devisee should be declared entitled to an estate. Suppose now, a gentleman dies and his will is not discovered, the heir-at-law would go into possession, and he might be dealing with the property for three or four years when a will might be found in some old cabinet or drawer. I know of three or four loans that went off because borrowers were mere heirs-at-law. The lenders would not accept them till they were certain that no will had been made barring their heirship. Doubtless that is a most difficult thing to deal with, because either way you might do a great injustice, and I consider that to be a very great difficulty in the recording of titles.

1940. But it is a difficulty that is inherent to our present system of law, quite independent of the Record of Titles Act?—Yes.

1941. Is there any other case that came before yourself where difficulties arose in regard to recorded estates except the two you have mentioned?—Not that I recollect.

1942. I see it stated in the answer of the Society that your Society consider that there would be certain advantages attached to the Record of Titles if it were practicable, what are the advantages that you consider would be attached to it?—The advantage would be a saving of time and of expense. It was represented at first that this system of recording titles would, among other things, leave with the owner a duplicate of the deed with all acts recorded on it, which in fact would be his title I never recorded without having a duplicate deed. There is, however, a clause in the Act to the effect that if you do not send in a notice within a certain time your conveyance would be recorded against your will; and a great many, from ignorance or neglect, omitted sending in that notice, the result being that their deeds were recorded even against their wish Those parties could only get a certificate from the office, but whenever I recorded an estate I always had duplicate deeds, and on the duplicate which I retained every act that affected the particular lands should appear If a portion was sold or leased, or if a settlement was executed, that would be added in the duplicate, and the beauty of that system was that you had your deed and your title together—an indefeasible title, for every act on the record is indefeasible.

1943 And you think that could be carried out with regard to all simple transactions—where there were not complicated settlements?—Yes, but where complicated or legal questions arose it became most difficult indeed.

1944 Then your opinion is that in all simple transactions—plain conveyances, mortgages, leases, or things of that kind, a record of title would be of advantage?—Yes.

1945 And you are aware that in the colonies it has been most successful?—So it is reported.

1946. And that the reason of its success there and its failure in the old country is that we have here a very complicated system of settlements?—Yes, that is given as the reason I know.

1947. Have you considered what may be the pro-

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portion of deeds dealing with complicated interests as compared with simple deeds?—After a while all those estates get complicated, for generally an estate is put in settlement on a marriage, and then there are uses for certain purposes or trusts, and these matters tend to complication.

1948. But are not the great majority of the deeds that are dealt with in the Registry of Deeds either conveyances, or mortgages, or assignments, or leases—simple instruments of that kind?—In the Registry of Deeds?

1949. Yes?—Yes, all such deeds are registered there as a rule; but the practice now is if you are registering a settlement, where the estate is conveyed to trustees for certain uses, not to set out the trusts.

1950. I don't think you follow my question, what I wanted to ask you is, from your knowledge as a solicitor in great practice, whether it is not the fact that the great majority of the deeds that are registered are deeds of a very simple character, such as assignments, mortgages, leases, and so forth?—There are —all acts dealing with lands are registered in this country.

1951. But the proportion of those deeds, which are of the nature I have alluded to, is much greater than conveyances of life interests, or any estate short of dealing with the fee-simple?—I should say that that is so. There are a great many leases, fee-farm grants, mortgages, and such like, which you may call simple, that are registered—far more than settlements of a complicated character; but there are, nevertheless, a great many settlements of a complicated character.

1952. Would you be surprised to hear that three-fourths of the deeds registered are of this character—conveyances, leases, or mortgages?—I dare say three-fourths would be about the proportion.

1953. Is there not considerable difficulty and trouble and expense entailed under the present system in dealing with those very simple transactions?—I don't know that there is much difficulty or delay in the case of a simple mortgage or lease.

1954. Is there not a great deal of trouble and expense?—That is according to the view that the gentleman takes in drawing his deed. I am much in favour of a short deed, and the old system of long deeds is quite abolished in the profession now. I have in my office old deeds of thirty or forty years ago, and I would be quite ashamed now to say that I prepared them.

1955. There is no doubt a great improvement in that respect, but still, as a matter of fact, in the case of any deed dealing with an estate, though only a simple mortgage for a small loan, have you not to go back and investigate the whole history of that property for a great many years?—Yes; no doubt.

1956. And that entails trouble?—Yes, in getting out searches, and in vouching title. If there could by any possibility be a more concise form of procedure, if one could do away with that and carry out what Sir Robert Torrance advised, it would be a very great boon.

1957. But now, in even the most simple transactions, clients are put to very considerable expense in obtaining a loan?—Well, it all depends on the length and the devolutions of their title, it may be a small expense or it may be a large expense.

1958. Do you think that the existence of the Registry of Deeds is of advantage at all to the owners of lands in these simple transactions?—I think it is.

1959. I mean an advantage outside screening them from risk. Is it an advantage in enabling them to have a loan negociated on more reasonable terms than if this registry did not exist?—The Registry of Deeds is a very great safeguard. According to the practice in England, every gentleman likes to have his own title deeds. Here we are not so careful of them, simply because there is a Registry of Deeds, and we know that if an instrument is lost or destroyed by fire or is mislaid, we can have all the necessary information as to its contents from the registry.

1960. That, of course, diminishes the responsibility of the solicitors, and of every one connected with the transaction?—Yes, if it appears on the registry we know that there is or must have been such a deed, or it could not have been there.

1961. While in England they have to rely very much on the honour and good faith of the party negociating?—Yes; and for that reason they hold their own title deeds there. Here we have the Registry of Deeds to fall back upon, and where I have had a difficulty in making out an abstract of title, I have always availed myself of the materials at hand in the registry, and have actually filled up gaps in my abstract from the memorials there.

1962. And do you think that the existence of a Registry of Deeds tends to diminish the expense of simple transactions like mortgages or loans?—I think it does.

1963. And I understand from your answers that you are strongly in favour of the Registry of Deeds, because you say "It is as near perfection as can be?"—I think it has been brought to a very perfect state.

1964. You would not concur at all, then, in the opinion expressed by many of the profession in England, that a Registry of Deeds, with its machinery for making searches over a long time, and so forth, is very costly and tedious?—I think the Registry of Deeds is a very great safeguard to people dealing with land, and as to the cost and expense of the transactions, I don't think the registry increases it much. At all events the benefit derived would clearly compensate for any additional expense incurred.

1965. What is the expense of getting a search?—It depends on the number of denominations of lands, the number of grantors there are, and besides there is so much charged on every act that appears on the search. We are in the habit of putting exceptions in the requisition for a search to save that last expense.

1966. Before going to another subject, I want to ask you one question first upon the cases you alluded to—these two cases of difficulty you met with under the Record of Titles—were they cases of your own clients?—Yes. I recorded the title in the last case that I mentioned, but it passed out of my hands as soon as ever the party entitled to it became possessed of it, and an English solicitor became solicitor for the party.

1967. Could you tell me the date of that transaction—the last one you alluded to?—I understand that Mr. White is to be examined after me, and he can give it better than I can. He was concerned for the widow.

1968. Then it is merely a coincidence that you both refer to the one case, for I was surprised to find it mentioned in Mr White's written answers as well as in yours. I see Mr White states that it was in 1877?—Yes, it is only about two years ago.

1969. Had you not given up recording title or advising your clients to record long before that?—I had—before it was attempted to assign over on the Records this estate that I had originally recorded in 1867. I had originally recorded this conveyance from the Landed Estates Court to the trustees of the settlement in 1867. There were two conveyances, one in 1867 and the other in 1870.

1970. And no difficulty arose in regard to them until last year?—Until we came to purchase them from the widow lady who was tenant in remainder —the widow of the gentleman who was shot.

1971. Have you known any instance, in which you have been acting professionally, where any one suffered by placing his estate on the Record of Titles?—I do not, except in this case where there was great expense incurred.

1972. What is the expense of removing an estate from the Record?—A good deal depends on the number of denominations that are on the Record. I suppose in this case it cost about £10 or £12.

1973. And would you think that was an exceptionally dear or cheap rate?—I think it was high enough.

1974. Exceptionally high?—No, I think not.

1975. You take it to be about the average cost of removing an estate from the Record?—Yes.

1976. What steps have to be taken to remove an estate—what process have you to go through?—I have to file a requisition under a particular section of the Act, that document goes before the Judge and he decides whether he will make the necessary order to close the Record. The proceeding is by requisition under the 32nd Section. There is under it a requisition under the hand of the different owners requiring the acts to be removed from the Record; then there is a memorial of that made—if it is passed by the Judge—and it is the Recording Officer that gives his certificate at foot of the memorial, which certificate is acted upon by the Registrar of Deeds who admits it to registration as removed from the Record of Title, which operation gives a fresh indefeasibility of title. The certificate removing the estate from the Record is an admission that the owner had an indefeasible title up to that moment.

1977. Is there any stamp duty on that?—Yes, and a court fee of £1. On the memorial there is stamp duty.

1978. What is the amount of the duty?—I don't remember.

1979. But that seems a very simple transaction?—Yes, it is simple if there is not any complication outside—if you can get all the parties interested to agree; but then arises the question who are the parties interested, and there the matter may very easily become complicated.

1980. Have you any idea of the number of estates that have been removed from the Record of Titles?—No—no idea.

1981. You have only removed this one?—Yes.

1982. Now I want to ask you a few questions about this scale of commission on mortgage or loan transactions proposed by the Incorporated Law Society (Ap. p. 119). Your society has adopted a scale of charges for negociating sales and loans?—Yes.

1983. That scale is based upon a per-centage charge?—Yes.

1984. And I presume it is adopted now by all the respectable solicitors?—Well, it is adopted by a great many.

1985. And therefore we may take it as representing the professional charges in the most favourable light for sales and mortgages?—I don't think you can view it in the most favourable—it is not a favourable set of charges.

1986. But I presume the profession consider these charges fair and reasonable remuneration for the services rendered?—Yes, a great many have adopted it, and on the other hand, I have heard a great many respectable men object to it.

1987. On what ground?—That it was not sufficient remuneration.

1988. I suppose that so far as small transactions are concerned it enables persons to have them carried out at less cost than would otherwise be the case?—Certainly, it is a fixed sum—a fixed per-centage, and if the parties agree upon that sum in lieu of ordinary costs it will lessen the expense in some cases very considerably.

1989. The ordinary costs would be more in the case of small transactions and much less in the case of large ones than the charges under the scale?—Yes, but in the small transactions—in the borrowing of £100 or £200 on a mortgage, you have the same trouble as to investigating title as if in the case of a larger transaction, a loan of £10,000.

1990. Supposing a person having an estate of £800 a year wanted to borrow £1,000, and that he subsequently took it into his head that he would borrow £10,000 instead of the £1,000, would not the cost of borrowing the one be exactly the same as the other, so far as solicitors' expenses would go, if this scale were not in existence?—Except on the score of stamp duty. You would have to examine the title as carefully for a loan of £50 as for a loan of £500.

1991. And the stamp duty is excluded from this scale of charges?—It is.

1992. If the scale of charges be therefore based upon the average return that the profession should receive upon these transactions ought not clients in small transactions to be gainers by the adoption of the scale?—They are great gainers.

1993. And consequently we may assume that the charges they would have to pay under an ordinary bill of costs would be considerably more than the charges under the scale?—That all depends upon the title they are putting forward in borrowing the money.

1994. Taking average cases—I assume this scale is drawn up on what the professiou presumed to be "average charges"?—Yes.

1995. Is it drawn up upon the basis that the profession ought to be paid fully for the smaller transactions or allowing less for these and charging much more on the larger ones?—Well, parties will object to pay large costs where they are borrowing small sums of money and this per-centage scale of course charges less for small loans than for large ones.

1996. I see from this document (scale of charges) that, in addition to the costs that are put down, all costs out of pocket, stamp duty, fees to counsel, and so on, are to be paid by the client?—That is only for the fees out of the solicitor's pocket.

1997. Supposing a tenant in tail wanted to raise a loan, would he not first have to disentail his estate—execute a disentailing deed?—Of course if he had the power of disentailing it would be a greater security to the lender.

1998. If he had to do so the charge of all that would be extra, I presume?—It would.

1999. Is it not the usual course, when a client applies to a solicitor for a loan, or that a client is lending the money, that the abstract of title and a direction for searches should be sent to counsel?—Yes.

2000. And then the profession act upon the opinion of counsel?—Yes—upon the advice of counsel always.

2001. That is almost invariably the practice?—Yes. I myself would not think of taking upon myself personally the responsibility of advising upon title.

2002. And does not that take away from the profession all responsibility in the matter?—Yes, to the extent of title. Counsel advises that a good title has been shown, and directs the searches necessary to be made to vouch the title, but the solicitor is responsible for carrying out these directions.

2003. But so far as the other responsibility, which is much the greater, is concerned, the solicitor is immediately relieved when he gets the advice of counsel?—Most certainly.

2004. Just look at that scale for a moment, and take the smallest loan provided for there—£500—does it not appear that the charge is close upon 5 per cent—a party borrowing £500 would have to pay £26 5*s.* 3*d.*?—Three per cent to the mortgagee's solicitor, and a sum equal to three-fourths of that to the mortgagor's solicitor. That is the charge for £500.

2005. And in addition all the costs out of pocket?—Yes—stamp duty.

2006. And counsel's fees?—Yes.

2007. And all the expenses of the Registry Office?—All cash out of pocket.

2008. What proportion would that bear to the solicitor's charges?—Well, it would be very hard to say that.

2009. In small transactions?—On a loan of £500 it is 2*s.* 6*d.* per cent stamp duty on the deeds. Then there are certain charges in the Registry of Deeds for the registry searches, and there is generally a direction given for searches for judgments, Crown bonds, and recognizances against an estate, and there must be fees paid on these.

2010. Do you think that counsel's fees and these stamp duties and charges at the Registry Office would in such cases amount to half as much again as the solicitors' charges?—It would be very difficult to say;

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it depends on the length of the title and the number of grantors of denominations and of acts appearing on the searches.

2011. You could not at all give any general opinion?—It would be difficult to form an accurate estimate

2012. But you see your society has endeavoured to arrive at some kind of general average for the solicitors' charges, and might not these other charges be similarly estimated—they are all depending on the circumstance of one case being more complicated than another?—These calculations are quite irrespective of moneys out of pocket, such as counsel's fees, expenses at the Registry, &c. These are not taken into consideration at all.

2013. But won't the one vary very much in proportion to the other—in every complicated case the solicitor's labour will be very much the greater, and in the same way will counsel's labour be much greater, and the other expenses likewise, so that if your society has arrived at an average for the solicitors' charges, could you not give an idea of what proportion these other charges would bear to theirs?—What additional charges would represent their costs out of pocket?

2014. Yes.—The only way you could measure that would be to take the stamp duty on the deed——

2015. That is a fixed quantity—a fixed sum, but counsel's fees?—They depend on the length of the title. With a short title we send a fee of two guineas; but if there is any complication it might go to from three to four or five guineas.

2016. Would you say it would be excessive to place these extras on an average calculated for a £500 transaction at £10 or £12?—No; I don't think the expenses out of pocket would come to £10 or £12 on a £500 loan unless there was something very extraordinary appearing on the search or a great number of acts, for the charge by the Registry of Deeds Department is on the basis of the number of acts returned.

2017. And this scale, I believe, as drawn up is in excess of the scale in England?—Yes.

2018. What is the reason of the Irish scale being higher than the English scale for these small transactions?—I cannot say as to that.

2019. Mr. LANE, Q.C. (*Secretary*).—The length and particulars of title would be the same for a £1,000 loan as for £500?—Yes.

2020. So that the fee to counsel would be the same?—Yes.

2021. The O'CONOR DON.—And consequently that would increase the proportionate expense on a small transaction as compared with a larger one?—Yes. We never measure a counsel's fee by the amount of the loan, but by the reading and work he has to do.

2022. Under this scale upon a large transaction—a £10,000 transaction, for instance—you charge five times as much as you do upon a £1,000 transaction; the cost, according to this scale, for a £1,000 loan is £43 15*s*, and upon £10,000 it is £218 15*s*—that is more than five times as much, and you have told the Commission that the expense of a £1,000 transaction—the actual labour, trouble, and responsibility, and all the rest, may be equal to, and in most cases will be equal to, that of a £10,000 transaction, and consequently when you charge for the £10,000 under this scale five times as much as you do for the £1,000, if you have fixed the £1,000 at a figure which would pay your ordinary bill of costs you must, under the scale in all large transactions, be receiving enormously more than if this scale were not in existence. Do you understand me?—Yes.

2023. And therefore, would it not rather appear that the scale is framed on the basis of the profession receiving less upon smaller transactions, and more upon heavier transactions than would be paid under an ordinary bill of costs?—My opinion is that the charges are reduced for any small transactions.

2024. They are reduced—ought they not to be very considerably reduced?—They are reduced as low as possible I should say for any respectable professional gentleman to accept.

2025. You don't consider that dealing with the transactions all round the respectable body of solicitors would benefit by adopting this scale, rather than by sending in ordinary bills of costs?—I think that if there were ordinary bills of costs we would have more, but no one would borrow £500 if they had to pay a large bill of costs, and therefore the profession thought it better to make a scale, a reduced scale to meet that view.

2026. Under the present system of conveyancing generally, you think the expenses are so heavy that they would deter most of the persons who would be dealing in small transactions, from £500 to £1,000, from borrowing or taking advantage of conveyancing at all?—Of taking advantage of conveyancing?

2027. Of borrowing upon landed security—do you think that?—I do, I think if a man was borrowing £10,000 he would pay with more satisfaction a legitimate bill of costs that would come to a considerable sum, than if he was borrowing only £100 or £500, but the same trouble and the same expense would have to be gone through in examining for the borrowing of £1,000, as for £10,000 or £20,000

2028. Then would it not be an enormous gain in respect to those small transactions, if people had a Record of Titles to which they could at once refer?—Certainly, if it could be done, and that is what I thought from the first.

2029. And the present system is almost a complete bar to persons either raising money on, or transferring frequently small estates?—With that small schedule of fees I don't think it should be, the fees charged there for a small loan are not very great.

2030. Don't you think that five per cent is a great deal to be charged all at once on a £500 transaction?—Well, I do not; it depends on the labour that represents.

2031. I am not disputing the labour and the trouble, our present system entails that labour and trouble, but don't you think that a large per-centage for the borrower to pay right off?—But there is such a difference in the titles submitted, that a lower average could not be struck. One title might be a very short and simple one, but the next may be exceedingly long and complicated.

2032. Mr. FINDLATER.—Is it within your experience that in small transactions in this country parties, complicate their interests in land quite as much, and even far more than in the case of persons holding large estates?—Yes

2033. And is there not frequently as much difficulty in dealing with these?—Yes; and frequently more.

2034. Difficulties created by the parties themselves in their dealings, owing to the interests they create and the settlements they execute?—Indeed I would say so, even much more than in the case of proprietors of large estates.

2035. Mr. MADDEN.—These small properties are oftener in the market?—Yes.

2036. Large estates are usually settled once in each generation with well and carefully prepared deeds, but smaller estates are oftener in the market, and besides they are frequently dealt with by ill-drawn and informal instruments?—No doubt.

2037. And would not those facts render small estates unfit for a system of Record of Titles—the frequent intervention of settlements?—Yes; for a great many legal questions arise on these different dealings.

2038. And is it not quite as important, in your opinion, for the owners of small estates to have their interests guarded against mistakes in an indefeasible title, as for the owners of large estates?—Certainly.

2039. With reference to this scale of fees, as I understand, it was possible for the solicitors to agree to an *ad valorem* remuneration for themselves?—Yes.

2040. But it was impossible for them to agree any further for they had to deal with the fees of counsel, and there is no such principle adopted by the bar, and therefore that must be excluded, and their costs out of

pocket also included charges upon searches in the Registry of Deeds which were also variable?—Yes; and searches against a small property will be just as expensive as searches against a large property, in some cases more so, because of the more frequent dealings with it.

2041. And the explanations which follow the searches will be probably more expensive?—Yes.

2042. It would, therefore, be utterly impossible to include these items in the scale of fees?—It would—utterly impossible.

2043 Did it ever occur to you, with reference to what the O'Connor Don has alluded to, that the expenses of the Registry office could be adjusted on an *ad valorem* scale?—I had not considered that.

2044 Might not an *ad valorem* scale be adopted to meet the just expenses, so far as registration is concerned, which is not included in the scale at present?—That often occurred to me before, but I think it could only be fixed on some basis including the valuation of the estate.

2045. And would not that meet a good deal of the hardship that is now complained of by the advocates of the Record of Titles Act?—It would.

2046. Mr. FINDLATER.—The greater complication of small transactions in this country affecting small holdings—the habit of selling and dealing with these repeatedly or frequently—would that not account for the scale having been fixed at a higher per-centage than in England?—It would, no doubt.

2047. The O'CONOR DON.—But are you able to state, Mr. Read, that small estates in Ireland are dealt with in a more complicated way and by settlement than in England?—I could not say as to England, but I know that there is more complication in regard to small estates in Ireland than in regard to large estates.

2048. Are the transactions more frequent or of a more complicated character in themselves?—The transactions are more frequent among owners of small estates than among owners of large properties.

2049. But of what character are those transactions?—Borrowing and soforth.

2050 That is not a very complicated transaction—borrowing?—That all depends on the title. There is no complication in borrowing money *per se*, or in giving security for money.

2051. But what I wanted to have clear is whether you think that the estates of small owners are dealt with in the way of family settlements, the creation of life interests, and other interests of a subordinate character, more than the large estates?—I do.

2052. You think they are more frequent in the case of small estates than in the large ones?—I think they are.

2053 Mr. MADDEN.—And the deeds dealing with small estates are not of such a careful character?—No, they are made by a class who wish to save money, and who run risks in title, which the proprietors of large estates would not dream of.

2054 And besides those two causes of complication—the more frequent borrowing and the settlements—there is also a third element in the case of smaller estates, that they are more frequently in the market?—Yes.

2055. The O'CONOR DON.—You are aware that in the Colonies, where the Record of Titles is in existence, estates are much more frequently in the market?—I am not aware as to that.

2056. Mr. LANE, Q.C. (*Secretary*).—Upon what principle would you fix an *ad valorem* duty for the registration fees—by what would you measure it if you were to think now that such a thing could be done?—I never thought about it.

2057. Would you proceed on the basis of the value of the property or the amount of the loan or rent?—For the registration of the deed.

2058. Yes, by what principle would you be guided in fixing an *ad valorem* fee for small estates, as compared with large ones, would you take the valuation of the property, or the length of the deed, or what?—I think the valuation of the property would be the most reasonable basis.

2059 Mr. FINDLATER.—According to the suggestion thrown out by The O'Conor Don, he seemed to think that there was very little responsibility on the part of the solicitor—that it was all taken off his shoulder by counsel. Now, is that so?—Not at all; all the responsibility of carrying out the different matters after receiving the advice and directions on title remains with him.

2060. And is that not an exceedingly serious duty, the carrying out of these details?—Very serious, indeed. Counsel advises as to the drawing of the deed, or even may draft it, but how that is to be carried out rests with the solicitor. The responsibility as to whether the title is good or bad is taken off his shoulders, but the solicitor is not divested of the responsibility of working out the matter afterwards. He has a great deal of responsibility in seeing that the directions of counsel are carried out in a proper and legal manner.

2061. The O'Conor Don asked if in the case of disentailing a tenant in tail would be an additional charge. I don't think you understood him. Is it not provided by the scale that only extra work, occasioned by changes occurring in the course of business, are to be charged in addition to the scale fees?—If counsel advised that a tenant in tail should execute a disentailing deed, the execution of that deed would be over and above an extra.

2062 The scale provides that these charges shall be all that are to be paid, except "any extra work occasioned by changes occurring in the course of the business," and if it had been originally stated that the borrower was a tenant in tail it would not be an extra?—Of course not.

2063 As I understand the scale it was only when something that was not contemplated by the parties originally, when they went into the transaction, arose, that an extra charge was to be made?—Yes; if anything occurs extra, the mere act of investigating title—suppose counsel advises on the title that it was necessary a certain act should be done by the party borrowing the money.

2064 The O'CONOR DON.—You think that would be an extra?—Most decidedly.

2065 Mr. FINDLATER.—But if it was originally contemplated in, take the case presented here, that the tenant in tail should bar the entail—if that was stated in the outset surely it would not be a charge that you would be entitled to make afresh?—If it was part of the contract certainly not.

2066 And would you not know the position of the borrower in the outset—would you not know that he was a mere tenant in tail who wanted to borrow on the fee?—Yes.

2067 The O'CONOR DON.—The Society must know whether they include it or not—if an owner in fee and an owner of a tenancy in tail come to borrow will they be charged the same, or will the tenant in tail be charged more in getting rid of the entail?—They would both have to pay the same amount, but if there was any matter extra the negociation that the tenant in tail should do that would be an additional expense to the scale fees.

2068. Mr. LANE, Q.C. (*Secretary*).—That is if he professed to borrow as a tenant in fee, and you found out that he was a tenant in tail, the expense of the disentailing deed would be an extra?—Yes.

2069. The O'CONOR DON.—But suppose two clients came in, one a tenant in fee, and the other a tenant in tail, and that you knew how they stood, would you under that scale, charge the same fees?—Yes.

2070. Mr. FINDLATER.—Isn't it your experience that a great number of complaints have been made by members of the profession that they were not properly remunerated by the scale—that the transactions frequently turned out more complicated than was origin-

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ally contemplated?—I have known several instances of that.

2071. And that in fact the scale is not adopted by all the profession?—It is not.

2072. Is it not by many most respectable members of the profession—is that not so?—It is not; many most respectable members of the profession refused to adopt it.

2073. The O'CONOR DON.—Because they consider it too low?—Yes. I have very great doubts if I would adopt it myself. A professional man runs a very great risk, in my opinion, in adopting that scale. He may have a great deal of trouble more than he ever anticipated.

2074. Mr. FINDLATER.—Don't you consider, with regard to the Record of Titles, that one of the great difficulties is occasioned by parties not coming in after they have first recorded the estate, until several intermediate transactions take place?—Certainly; and then the writing up is a difficulty and delay. You have then to write up several matters that have occurred in the interval, and which ought to have been recorded when they took place.

2075. Mr. MADDEN.—In some cases, I understand, they have found it easier to commence afresh—to close the old record and commence anew?—Yes, that is so.

2076. Mr. FINDLATER.—In the case you mentioned, with regard to the will, the great difficulty arose, as I understand, from what the Judge required to be done before he would be satisfied as to the validity of the will, and that was probably because he knew that if he once recorded the devise under it, it would be indefeasible?—No doubt.

2077. And that, in many transactions, renders it extremely undesirable to record an act?—Yes, because, for instance, you give an heir-at-law an indefeasible title, where a will might turn up to oust him afterwards—you give him an indefeasible title against a devisee.

2078. Would you consider that it is worth while having both a place for the Record of Titles, and also a Registry of Deeds, merely for the facility afforded in small transactions?—I don't approve of having the two together. I would prefer the Registry of Deeds to the present Record of Title. But I think there is an objection in having concurrent registries in the Record of Deeds and the Record of Titles, because one dealing with an estate may be registered, and the other recorded, which tends to complicate matters.

Mr. William White.

Mr. WILLIAM WHITE, Solicitor, examined by the O'CONOR DON.

2079 You have had some experience in the working of the Record of Titles Act?—I have had some two or three cases.

2080. Have you recorded any estates yourself?—Never one

2081. You were never an advocate for the Act then, I presume, unlike Mr Read?—No, I was not an advocate of the Act, I objected to it in rather a wholesale manner, had I considered its provisions more carefully perhaps it would have been otherwise.

2082. From your written answers it appears that your principal objection to the Act was the retaining in the Recording Office of the original conveyances?—Yes, then

2083. But are you not aware that duplicate copies of the deeds are furnished in every case when asked for?—I am now; but I don't think that is a thing generally known, and speaking from my knowledge of the people in the south and west of Ireland, taking away a man's deeds is a thing that it would require a long course of education to inure him to.

2084 It appears from what you have stated in your answers here, and eminent in your profession as you are, that you were ignorant of that when you sent in this communication to the Commission?—I had not thought of it rather; I cannot say whether I was ignorant of it or not

2085. Surely, you would not say that your principal objection was one which has no real existence at all, if you had knowledge of it?—I don't think I could have known that there was a duplicate issued. I must have been under the impression that the deed was lodged in the office.

2086. That impression does not exist any longer, for you are now aware that a duplicate conveyance is always given when it is asked?—Yes. But then in the case of catching deeds under the 7th section of the Act, when the parties don't give notice, and it is detained against their will, there is no opportunity of getting a duplicate. You cannot get it once the estate is recorded.

2087. That is where people do not record voluntarily?—Yes; and I was thinking of the involuntary recording, which is all I ever had to deal with, when I furnished these written answers

2088. Mr. Read was engaged with you in the case you have mentioned in your answers?—Yes. In that case the devisee of a recorded estate wanted to have her title recorded and failed. Her title consisted of a will—the will of her husband who was killed in the Maori war. There was no personal property, but the will was quite good as regarded realty without being proved. The Judge required, before he would admit the deed to the record, that the will should be proved in solemn form to bind the heir-at-law. That was impossible, because a Captain Paget, the surviving witness, could not be heard of—he had gone to Australia, and could not be found We made an application to the Judge of the Probate Court, but could not succeed. Now, if this had been done out of court and apart from the Record of Titles, the will would have been a link of title at the expense of 10s. through which my client would have derived. But we were in a perfect fix—could not proceed one way or another, until I found the section under which you can get a recorded estate removed from the record, and that means of cutting the Gordian knot was adopted. We could not prove the will in solemn form, and unless the Judge of the Land Court or the Judge of the Probate Court gave way, we could, without that step, have done nothing, and if that title had not been recorded we could have completed the matter two years ago. My client is ruined by it nearly.

2089 This was a record of a subordinate interest—your client was not the owner under the will?—Yes; she was.

2090 How could the title be removed then if she were the owner?—I cannot conceive how it was done. Mr MacDonnell said the same difficulties would arise in the way of removing the estate from the record as were experienced in attempting to get the will put on the record. But the Judge removed it, notwithstanding.

2091. Mr. Read explained that there were trustees, and that they got it removed?—He knows how it was done, for he managed it with the Judge; but that difficulty would not have occurred if we had been selling out of court.

2092. Is that the only case that has come under your notice in which difficulties have arisen?—There was another case in which a difficulty arose. A client of mine purchased a small estate in the county of Roscommon from Mr. Hamill, Q.C., and there was an arrear of rent due, which was also passed by the conveyance. The tenant refused to pay. In this case I should observe that we did not take a duplicate of the deed, else the difficulty would not have occurred. The certificate of transfer which I got only stated that there had been a transfer of the lands, and I endeavoured to get that amended by

adding a transfer of the arrears of rent, but Mr. MacDonnell refused to give me that, and in order to recover the arrears I should have had to bring down the assistant in his office at a larger expense than the amount in question. There was a third case of Acheson's property, partly registered and partly recorded —in which we had recorded the deed of conveyance, but did not record a mortgage.

2093. Is the process of removing an estate from the record a long or complicated one?—Well, in Hastings' estate, Mr. MacDonnell was first furnished with the necessary documents for the purpose of recording, and he wrote in the fold of one of these his reasons for refusing to admit the will to the record. We then lodged an application to the Judge, and then the Judge raised other points. He appears to be the head of that department virtually.

2094. Mr MADDEN.—You don't think that there can be much danger of loss in that way so?—I thought Mr. MacDonnell overstated the matter, I would have been rather dissatisfied to rest on his dismiss But I always thought the Judge of the court is the final Judge.

2095. The O'CONOR DON.—All questions of importance are referred to him?—In this case that was so.

2096. And if it is not so provided for in all cases it might and should be?—Yes.

2097. Mr MADDEN.—That is, all questions considered by the officer to be moot, or grand questions are referred?—Yes.

2098. But in the first place the officer considers them?—Yes I could give you some information with regard to the Registry of Deeds if time permits

2099. The O'CONOR DON.—Certainly; kindly proceed.—There was a matter mentioned in Mr Littledale's evidence, from which I must altogether dissent. He was asked as to the advantage of recording searches, and he said he did not consider that it was of any value—he never took advantage of it I did though and know the benefit to be derived from it I hold in my hand the papers in a £25,000 loan, which I am negociating with Mr John Mamsell, one of the first men in our profession, and there is a recorded search for five years, that I get for 3*s* 4*d*, in place of perhaps four or five pounds This has occurred in numerous instances with me, and I was quite surprised to find that these recorded searches have been so little used. They are the means of saving time and expense.

2100. Mr MADDEN.—Then it is your opinion that the provisions of that statute are not used so much as they might be?—I have heard, with great surprise, that they are so little used. I always use them myself.

2101. Mr FINDLATER.—Is it not possible that that may be caused by the estate passing into the hands of another solicitor—that he would not know that such a search was recorded?—There is an Index of Recorded Searches.

2102. Did you acquire the knowledge of this recorded search in the case you have mentioned, from the index or from your experience of the lands in question?—I called on the solicitor for one of the mortgagors who was to be paid off, and he gave me this, but I would have gone to the Index otherwise.

2103 Mr MADDEN.—It is your practice to follow that course—to search the Index of Recorded Searches?—Yes.

2104. And you have derived benefit from that?—Certainly.

2105. Mr LANE, Q.C. (*Secretary*).—Might not the copy search that the solicitor had, be made evidence without recording again at all?—I think not; no one would take it A member of our profession, not far from here, told me that he would not take a search of this kind in any case—that he would insist on making the search over again.

2106. I always thought that the difficulty was that different kinds of searches might be directed by different counsel?—Take it that a search has been directed for thirty years, this (the recorded search) covers a portion of that period, leaving only so much to be done to complete it

2107. The O'CONOR DON.—Is there any other matter that you wish to mention?—Yes, there is one thing that has pinched me at the Registry Office, arising from the too long intervals between the consolidated books—they are only consolidated every ten years, and I would suggest that the period should be reduced to three years, which would bring it into something like the state of things at the Judgment Office

2108. Mr LANE, Q.C. (*Secretary*).—You are not speaking of the Prospective Consolidated Indexes which exist in the office—you have not seen them probably?—No. As to the moot point whether the original deed or a complete copy should be deposited at the registry, or the present memorial, it occurred to me that if the former alternative be adopted, precautions should be taken to prevent the deeds being inspected by any one who went in, as wills are inspected now. It has been said "you need not be afraid of an honest title," but it may be very honest and yet you may be put to great expense proving it, and there are designing people who may go up there to search for this purpose, so that I would not on every occasion produce family deeds unless a *prima facie* case was shown for their inspection

2109. Mr MADDEN.—Don't you think that making these consolidated indexes in five years periods would be an improvement?—Oh certainly, but I would rather have them in two or three year periods.

2110 That would involve the difficulty of the multiplication of books, and would not five years be a better mean between ten and one?—Yes

2111. The O'CONOR DON.—I suppose you consider the consolidated and corrected indices far superior to the sectional ones?—Oh! there is no comparison between them.

DUBLIN, *June*, 1874.

SCALE OF COMMISSION Proposed by the Incorporated Society of the Attorneys and Solicitors of Ireland for the remuneration of Solicitors for their skill, labour, and responsibility in respect of Loans and Sales, referred to in No. 1982.

Scale of Commission proposed by Incorporated Society

The Commission is to include all charges for negotiation, but is to be exclusive of all disbursements, including scrivenery, also of journeys, and any extra work occasioned by changes occurring in the course of the business. It is not to include any business of a contentious character, nor any proceedings in any Court.

No Scale can be made applicable to every case, but it is hoped that the following Scale, framed on the plan of that proposed by the Council of the Incorporated Law Society, and now in general use in England, will be found of essential service to the Profession, and enable parties, having due regard to circumstances, to fix rates in the great majority of cases.

[TABLE

EVIDENCE

AS TO FREEHOLDS AND LEASEHOLDS.

LOANS.

		Mortgagor's Solicitor.		Mortgagee's Solicitor.
A	Loans of £500	A sum equal to three-fourths of the Mortgagee's Solicitor's allowance		£3 per cent.
A	And in addition After the first £500, for every £100 up to £2,000	Do.	do.	£2 per cent.
A	And in addition After the first £2,000, for every £100 up to £10,000	Do.	do.	£1 per cent.
A	And in addition After the first £10,000	Do.	do.	½ per cent.
B	Loans on properties purchased in the Landed Estates Court, where the conveyance and the mortgage are simultaneously executed	One-half of the above rates of per centage		One-half of the above rates of per centage.
C	Loans from the Board of Works, for drainage, planting, farm buildings, purchase of tenants' holdings, &c.	One-quarter of the above rates of per centage		The Council do not make any suggestions as to the Mortgagee's scale of charges.
C	Loans from the Commissioners of Church Temporalities in Ireland	Do.	do.	Do. do.
C	Other loans of a like nature	Do.	do.	Do. do.

SALES AND PURCHASES

	Vendor's Solicitor		Purchaser's Solicitor.
For first £1,000	A sum equal to three-fourths of the Purchaser's Solicitor's allowance.		£3 per cent.
And in addition After the first £1,000, for every £100 up to £5,000	Do.	do.	£2 per cent.
And in addition After the first £5,000, for every £100 up to £50,000	Do.	do	£1 per cent.
And in addition After the first £50,000, for every £100	Do.	do.	½ per cent.

Fractional parts of £100 are to be reckoned as £100.
The above Scale is not intended to apply to Sales or Purchases in the Landed Estates Court.

Where a Loan or Mortgage forms part of a Sale and Purchase transaction in the Landed Estates Court, and the same Solicitor acts, the Solicitor should be entitled to one-half the allowance for a Mortgage in addition to the allowance for a Sale and Purchase.

Sales in Lots to be treated as separate transactions, if Lots are sold to separate Purchasers

On Sales by Auction, if a contract is not entered into for the sale of the property, or (if there be more than one Lot) for the sale of all the Lots, then the Vendor's Solicitor shall have only one-third of the allowance, calculated on the reserved price of the property, or of the several Lots unsold.

SPECIMEN TABLE

Amount of purchase or loan	Loans Mortgagor's Solicitor			Loans Mortgagee's Solicitor		Sales and Purchases not in Landed Estates Court	
	A Freehold and Leasehold Title to be investigated	B Landed Estates Court Security simultaneously with purchase	C Loans from Public Boards	A Freehold and Leasehold Title to be investigated	B Landed Estates Court Security simultaneously with purchase	Vendor's Solicitor	Purchaser's Solicitor
£	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
500	11 5 0	5 12 6	2 16 3	15 0 0	7 10 0	11 5 0	15 0 0
1,000	18 15 0	9 7 6	4 13 9	25 0 0	12 10 0	22 10 0	30 0 0
2,000	33 15 0	16 17 6	8 8 9	45 0 0	22 10 0	37 10 0	50 0 0
3,000	41 5 0	20 12 6	10 6 3	55 0 0	27 10 0	52 10 0	70 0 0
4,000	48 15 0	24 7 6	12 3 9	65 0 0	32 10 0	67 10 0	90 0 0
5,000	56 5 0	28 2 6	14 1 3	75 0 0	37 10 0	82 10 0	110 0 0
6,000	63 15 0	31 17 6	15 18 9	85 0 0	42 10 0	90 0 0	120 0 0
7,000	71 5 0	35 12 6	17 16 3	95 0 0	47 10 0	97 10 0	130 0 0
8,000	78 15 0	39 7 6	19 13 9	105 0 0	52 10 0	105 0 0	140 0 0
9,000	86 5 0	43 2 6	21 11 3	115 0 0	57 10 0	112 10 0	150 0 0
10,000	93 15 0	46 17 6	23 8 9	125 0 0	62 10 0	120 0 0	160 0 0
15,000	112 10 0	56 5 0	28 2 6	150 0 0	75 0 0	157 10 0	210 0 0
20,000	131 5 0	65 12 6	32 16 3	175 0 0	87 10 0	195 0 0	260 0 0
30,000	168 15 0	84 7 6	42 3 9	225 0 0	112 10 0	270 0 0	360 0 0
40,000	206 5 0	103 2 6	51 11 3	275 0 0	137 10 0	345 0 0	460 0 0
50,000	243 15 0	121 17 6	60 18 9	325 0 0	162 10 0	420 0 0	560 0 0

RETURNS requested by the COMMISSIONERS from the REGISTRAR of DEEDS in IRELAND.

FIRST.—The several steps in the registration of a Deed and other Instrument, from the time it is brought into until it leaves the Office, according to the present practice of the Office.

SECOND.—The nature and forms of the several indexes as prepared and used in the office.

THIRD.—The nature and details of the several kinds of searches and certificates thereon, and the system pursued in the making and checking common and negative and recorded searches, respectively.

FOURTH.—Whether all the provisions of the Statutes for the registration of Deeds are now carried out as to the mode of Searching, Registration, and Indexing, and if not, how far any of such provisions have been to any and what extent departed from and why?

FIFTH.—Up to what date the several entries in the Indexes and other books, respectively, have been completed and are ready for use.

SIXTH.—The annual numbers during each of the last five years of—

(*a.*) Deeds and other Instruments registered.
(*b.*) Negative and Common searches respectively.
(*c.*) Parties privately inspecting the books.
(*d.*) Copies of Memorials called for
(*e.*) Requisitions for inspecting Original Memorials.

SEVENTH.—Specimen sheets of the several books with their entries, and of the Indexes, Searches, and Certificates, showing examples of all the details of the operations of the office

EIGHTH.—The present staff of the Officers and Clerks in the Office, and their duties respectively, and whether it is or not sufficient for the work of the office, and if not, to what extent and in what respect is it insufficient?

NINTH.—The number of negative and common searches respectively now in progress in the Office for which requisitions were sent in previous to the 1st May, 1878, with the dates of lodging the requisitions respectively, when each was commenced, and the probable time of its completion.

TENTH.—The number of copies of Recorded Searches which have been issued, and of demands for inspection of the Recorded Search Book for the five years previous to the 1st May, 1878; from and to what time are those books complete and compared? the several steps in the Recording of a Search, the number of clerks employed in that department, and specimen sheets of the forms and entries in those books.

ELEVENTH.—The salary paid to each officer and clerk at present, and the nature and amount annually for the last five years of the Registering, Indexing, Searching, and Transcribing departments respectively, and of the incidental expenses of the office.

RETURNS by the REGISTRAR of DEEDS in IRELAND, pursuant to the foregoing Requisition

Return No. 1.

Registration is effected by the lodgment of the Deed at the Registry of Deeds Office, accompanied by a Memorial, the Memorial and Deed are then carefully compared by two clerks, to see that the statutable requirements are complied with. If these requirements have been complied with, the Deed and Memorial are then initialled by the comparing clerks, and returned to the party or solicitor presenting same.

This comparison precedes registration. The Deed and Memorial are then brought by the person registering to the Assistant Registrar, who will not receive them, unless they bear the initials of the comparing clerks, and have the proper fee stamps impressed on, or fixed to them. The Assistant Registrar then sees that these instruments bear the proper General Stamp, and ad Valorem Duties according as the instrument registered may be a settlement, conveyance, mortgage, lease, or so forth

Unless the affidavit has been previously sworn (in which case he marks the time of registry on the Memorial himself), the Assistant Registrar administers the Oath of Verification to the witness. He then enters the Deed, by the name of the solicitor, or party registering, together with the amount of fees thereon, in a day list in the order in which it has been registered.

He then marks on the Deed the serial number of that day from the day list; he also marks the fees upon both Deed and Memorial; a lodgment docket, as it is called, is then given to the party or solicitor registering, which must be handed back to the clerk in charge of the Deeds, before the Deed is returned. The docket is in the following form:—

LODGMENT DOCKET.

REGISTRY OF DEEDS OFFICE,
day of 187 .

Deed lodged by _____

No. _____ Fees, £ : : .
" _____ " _____ : : .
" _____ " _____ : : .

_____ *Assistant Registrar.*

NOTE.—This Docket should be produced at the Office and delivered up on the morning next but two after the day on which the Deed shall have been lodged.

The Deed and Memorial then pass at once into the hands of the clerk who is making the "**Day Book.**" See Form No. 1.

He takes the Memorials strictly in the order in which they and the Deeds to which they belong have been received and numbered in the day list by the Assistant Registrar.

MISCELLANEOUS.

Returns of Registrar of Deeds.

The clerk also places on each Memorial the number of the File and Transcript Book to which it belongs, together with its distinguishing number (from 1 to 300) in that File, or Book.

These identical numbers are carried on through all the office books, in which these Memorials are subsequently entered. Deeds left for registration are generally entered in the Day Book, on the same day but always early on the following day. From this book the current indexes of names are compiled. A **duplicate copy of the Day Book** is made which is compared with the original. It is, in fact, essentially necessary for many purposes. In this duplicate Day Book the receipt (with date of returning) of the party or solicitor to whom the Deed is returned is taken.

This duplicate Day Book is also absolutely necessary for searching purposes, and is in daily use by the profession, and the public, who desire to bring their private or "hand searches" up to the latest moment of the day, and when the original Day Book, being in the hands of the Index of Names makers and comparers, is not available for public use, or at least, to speak more correctly, could not be taken out of official hands, without momentarily impeding altogether the compilation of the book itself, and of the indexes constructed from it.

The original Day Book is carefully compared by two clerks against the Memorial, and the Memorial against it; the comparison is, in fact, double. The compilation and comparison, or revision, of the book requires much care and some technical knowledge, owing to the variety in the forms of Deeds, and the different interests with which they deal.

The duplicate Day Book is carefully compared against the **original Day Book.**

The Certificate of Registry having been in the meantime endorsed on the Deed and signed by the Assistant Registrar (See Form No 18 A), is given to a clerk, who keeps the Deeds in alphabetical order of the solicitors' names for return to these gentlemen. The Deed is generally ready for return on the day after Registry.

Return No. 2.

List of Forms (each being numbered) sent herewith :—

No. 1 Day Book.
„ 2. Sectional Index of Names (Quinquennial).
„ 3. Prospective Consolidated Surname Decennial Index of Names.
„ 4. Decennial Consolidated Dictionary Index of Names.
„ 5. Abstract Book.
„ 6. Index of Lands, . . Barony Book.
„ 7. Ditto, . . No Barony Book.
„ 8. Ditto, . . City, with Parish
„ 9. Index of Lands, . . Without Parish.
„ 10. Ditto, . . Corporation Towns.
„ 11. Ditto, . . General Index.
„ 12. Transcript Book.
„ 13. Negative Search (Requisition copied at head of Search).
„ 14. Common Search.
„ 15. Recorded Negative Search
„ 16. Recorded Negative Search, Index of Names.
„ 17. Ditto, . . . Index of Lands.

No. 18. **Various Forms of Certificates.**

Certificate of Registration on Deed, ... **A.**
Certificate on Negative Search, ... **B.**
Certificate of Satisfaction of Judgment Mortgage, ... **C.**
Certificate of Vacate of Mortgage (Building Societies), ... **D.**

The Index of Names is compiled from the Day Book.

The Current or Quinquennial Index of Names (See Form No 2) has one or more books for each letter of the Alphabet—the names are entered in these books in Sectional order, *i.e.*, by the two first letters of each surname, for instance, under Section "Ba" are entered Baker—Ball—Babington—Barber—Bastable, and all other surnames whose two first letters are "Ba", and so on throughout the entire Alphabet. Instead of the Duplicate prescribed by Act of Parliament, and which was practically useless, because unnecessary, there is now carried on with the knowledge of the Treasury a **Decennial Prospective Surname Dictionary Index** on paper (See Form No. 3), which is found most expeditious for official searching purposes, as it anticipates the period for the preparation of the Consolidated Index under the Statute.

Both these Names Indexes are carefully compared against the Day Book entries.

The Decennial Consolidated Index on Parchment in strict Dictionary order of christian and surnames (See Form No. 4) is compiled at the end of each decennial period from either the Sectional, or the Consolidated Prospective Surname Index.

A strict Dictionary Index in christian name order cannot be carried on during a current period, as shewn by the fact that it has been tried, and found impracticable.

The Abstract Book from which the Index of Lands is compiled comes next. It is a most important book, and is made out in much greater detail than the Day Book (See Form No. 5). It contains, in addition to the particulars in the Day Book, the nature of the Instrument—the consideration, Rent, &c., and sets out all the lands and premises referred to in the Memorial, and the Barony and County, or City, or Corporation Town, in which they are situated This Book is most useful for searching purposes, in fact, it contains all the substance of the Memorial, and renders resort to that Instrument in most cases unnecessary by the public or official Searchers.

It is most carefully compared against the Memorial itself, and the Memorial against it

The accuracy with which this book is compared is shewn by the immunity from error of the returns—*i.e.*, the acts, upon Searches, which are copied from it From the much more considerable amount of matter appearing in this book, it is necessarily behindhand in point of time with the Day Book.

The Index of Lands (See Forms Nos 6 & 8) is prepared from the Abstract Book. There is a Book (or Books) for every County in Ireland, and for every City or Corporation Town, the latter being certain Towns which are indexed apart from Counties. Each County Book contains separate divisions for as many Baronies as there are in the County, each City Book for as many Parishes as there are in the City. Some Cities are not indexed under Parishes, but Alphabetically, or under the name of the City. The Lands, or premises, are entered under alphabetical headings on each Barony or Parish—in Corporation Towns (See Form No. 10) under the name of the Town only, or in some cases alphabetically.

The making of this Index is much more tedious than the Index of Names, as the abstract of a Memorial may contain the names of 50, or 100, or several hundred lands, yet have only one Grantor, which necessitates many more entries on the Lands, than on the Names Index.

Books (See Forms No. 7 and No. 9) called the **No Barony** and **No Parish** are kept, though not prescribed by the Statute, to meet cases where the Memorial does not express the Barony in a County or Parish in a City in which the Lands or premises are situated, otherwise these Memorials could only be entered on the Index of Names The entries of the Lands are in alphabetical order. A Book (See Form No. 11), which also is

3. There is a school attached. The Educational arrangements are satisfactory.
4. About eleven miles.
5. It would not, so far as I can judge.
6. I have none to suggest.

T. H. Burke, L.G.I.

13th August, 1877.

Report from Mr. W. Armstrong, to the Commissioners.

Chaffpool, Ballymote,
8th August, 1877.

Gentlemen,

The Local Government Board having forwarded to me certain queries with regard to the several Unions in my district, and directed me to forward to you the answers thereto, I have the honour to transmit for your information a list of the several queries, together with my replies thereto.

I have the honor to be, gentlemen,

Your obedient servant,

W. Armstrong, *Inspector.*

The Commissioners of Enquiry into
Poor Law Unions, &c.,
Four Courts.

Ballyshannon.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is good. There is a separate Fever Hospital.
3. The school appears well conducted.
4. The centre of the most remote electoral division is about twenty statute miles distant from the workhouse by road.
5. I do not think any of the adjoining workhouses would be available for the reception of the in-door poor; but I think Mr. R. Hamilton should be consulted on this point.
6. I can offer no suggestions as to altering the boundaries of the Union.

Bawnboy.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is sufficient. There are separate male and female fever wards.
3. The school appears well conducted.
4. The workhouse is about twenty miles distant by road from the centre of the most remote electoral division.
5. I do not think any adjoining workhouses would be available.
6. I can suggest no alterations in the boundaries of the Union.

Boyle.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is very good. A separate Fever Hospital.
3. The schools, male and female, are well conducted.
4. The centre of the most remote electoral division is about eighteen or nineteen statute miles distant from the workhouse by road.
5. I do not consider any adjoining workhouse available.
6. I can suggest no alteration of the boundaries of the Union.

Carrick-on-Shannon.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is very good. There is a separate Fever Hospital.
3. The schools (male and female) are, I believe, well conducted.
4. The centre of the most remote electoral division of the Union is about twenty statute miles distant from the workhouse by road.
5. Boyle and Mohill workhouses are about nine and eleven statute miles distant, respectively; but I do not think any change desirable.
6. I cannot suggest any alteration in the Union boundaries.

Manorhamilton.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is good. There is a separate Fever Hospital.
3. The school is well conducted.
4. The centre of the most remote electoral division is about seventeen statute miles distant from the workhouse by road.
5. I do not consider any adjoining workhouse available.
6. I can suggest no alteration of the boundaries of the Union.

Mohill.

1. The workhouse is quite sufficient.
2. The Hospital accommodation is good. There is a separate Fever Hospital.
3. The schools (male and female) are, I believe, well conducted.
4. The centre of the most remote electoral division is about sixteen statute miles from the workhouse by road.
5. I do not consider any of the adjoining workhouses available.
6. I can suggest no alteration in the boundaries of the Union.

Killala

1. There is sufficient accommodation for the inmates, but the house is very old, being formerly the Bishop's palace.
2. There is fair Hospital accommodation, but no separate Fever wards
3. School fairly conducted.
4. The most remote electoral division is about twenty statute miles distant from the workhouse.
5. I think all the in-door poor of the Union might be accommodated in Ballina workhouse, about seven statute miles distant.
6. The only suggestion I can offer is, to amalgamate the Union with Ballina.

Belmullet.

1. The workhouse is sufficient.
2. The Hospital is sufficient, but there are no separate Fever wards.
3. The school appears fairly conducted.
4. The centre of the most remote electoral division of the Union is, I am informed, about twenty-three statute miles distant from the workhouse.
5. I do not consider any adjoining workhouses available.
6. I can offer no suggestion as to the boundaries of the Union.

Swineford.

1. The workhouse is quite sufficient.
2. The Hospital accommodation good. A separate Fever Hopital.
3. The school appears well conducted.
4. The centre of the most remote electoral division, "Doocastle," is about fourteen or fifteen miles distant from the workhouse.
5. It might be practicable to provide for the in-door poor in Tobercurry, Claremorris, Castlebar and Ballina Unions, but I do not think it would be desirable.
6. I can suggest no alteration of the boundaries of the Union.

MISCELLANEOUS.

Returns of Registrar of Deeds

Return No. 8.

MICHAEL F. DWYER (*Registrar*), Salary, £1,200.

The Registrar has the direction, management, and superintendence of all departments in the office, for the carrying out of its functions, under the several Acts of Parliament by which the office is regulated, coupled with the responsibilities enjoined by the Statutes. He exercises supervision and control over the officers, clerks, and assistants throughout the different branches, directs the general business, and fulfils all acts necessary for the government and efficient conducting of the establishment, which at present consists of sixty-six persons, besides nineteen temporarily employed. He is responsible for the correctness of the Annual Estimates, and, as Accounting Officer, for the proper disbursement of the Parliamentary Grant. "The Registrar is responsible for the correctness of all copies of Memorials or Abstracts which may be required."—(Report Parliamentary Committee, 1832, p. 4.)

"He must maintain a well-regulated system of check and control in order to preserve all departments in a state of continued efficiency, so as to ensure both the greatest convenience to the public, and at the same time to protect himself against the carelessness of so many individuals, each of whom is performing an important duty, for the erroneous execution of which the Registrar may, at some future period, be held responsible."—(Parliamentary Report, 1832, pp. 4 and 5.)

"He is responsible also for the safe custody of the books of the office, and has given security to the Crown for the due discharge of the duties of his office, to the amount of £5,000. This sum, however, is by no means to be considered as a limit to his responsibility."—(Parliamentary Report, 1832, p. 8.)

"The precision required in the execution of the duties, will make a vigilant control over every branch of the establishment absolutely indispensable to the Registrar for his own protection."—(Parliamentary Report, 1832, p. 6.)

The Registrar has, from day to day, to meet professional men and the public, as well as the clerks themselves, in the discussion and settlement of new, and of reserved questions, affecting matters of Registry, and the general practice of the office, particularly in respect to the Indexes and Searches. A daily return of the state of all the current business is made to him, by the Chief Clerk, and on every Monday morning a weekly return, showing in great detail the state of the business for the current year, as compared with the same period of the year past. On each Monday he inspects the references and tabular statements of all the Searching Clerks, in order to see how each person has worked during the week. He frequently examines the files of unmade Searches, and, as a rule, always does so on Monday.

THOMAS M. RAY (*First Assistant Registrar*), Salary, £750.

JOHN J. MATSON (*Second Assistant Registrar*), Salary, £700.

The Assistant Registrars receive the Deeds and Memorials for Registry, examining them to see that they are properly stamped, also seeing that the Memorials have been compared with the Deeds, as directed by the Act. They administer the Affidavit of Verification of the Memorials to the persons presenting them, or enter the day, hour, or minute of receipt, upon those Memorials which are verified before Commissioners, or other officers under the Statutes. They also see that all adhesive stamps used in the office are properly cancelled. They sign the Certificates on Searches, and deliver the Searches when complete, sign Certificates of Registry upon the Deeds, also sign Attested Copies and official documents. The Assistant Registrars confer with the Solicitors and the Public, on questions regarding Searches in progress, and on other matters of business. They give directions respecting the immediate business of the office, and in case of temporary absence of the Registrar, act for him, in the general superintendence. They give security to the Crown in the sum of £2,000 each, in the same manner as the Registrar, and with a further condition to indemnify him against any loss to be sustained by him through their default or negligence in execution of the orders or directions given to them by him, respectively.

DANIEL O'C. FFRENCH (*Chief Clerk*); Salary, £550.

THOMAS FITZGERALD (*Assistant Chief Clerk and Accountant*), Salary, £500.

The Chief Clerks are intermediate between the Registrars and general staff. They are in constant conference with the Registrar and Assistant Registrars, reporting to them, taking and carrying out their directions respecting the business of the office, the character of which being peculiar requires much immediate supervision. They compare Negative Searches, check Extra Clerks' accounts, mark deposit on Searches, and have charge of all Deposit Stamps, lodged by the Public for Searches and Copies. They calculate the fees on all documents, assist at the payment of salaries of permanent clerks monthly, check and pay the Accounts of the Extra Clerks weekly, prepare accounts, returns, &c., for Treasury and Audit Board, with many other contingent duties incident to their office.

Names.	Salaries.	Duties.
TEN FIRST CLASS CLERKS.—£315 to £450, by £15.	£	
1. Arthur M. Day,	450	Comparing Abstracts.
2. George Mee,	435	Restoring old Indexes and making corrections, &c.
3. Jeremiah Leyne,	450	Comparing Day Book and Abstracts.
4. Maurice Moriarty,	400	Entering Index of Lands.
5. Robert V. Ratigan,	435	Searching.
6. Vincent Eyre,	415	Searching (Common).
7. William M. Lynch,	375	Searching.
8. Thomas Williams,	375	Searching.
9. Daniel O'Meara,	345	In charge of Public Searching Room and Records.
10. (Vacant)		
FIFTEEN SECOND CLASS CLERKS.—£210 to £300, by £10.		
1. John W. Butler,	266	Copying Negative Searches into Record Book.
2. Thomas A. Dillon,	280	On Treasury Leave since May, 1874.
3. James Tighe,	280	Searching.
4. James Ennis,	260	Entering Index of Lands.
5. George Macartney,	270	Assisting Chief Clerks and Stamp Distributor.

Names.	Salaries.	Duties
FIFTEEN SECOND CLASS CLERKS—£210 to £300, by £10—*con.*	£	
6 Richard Leyne,	250	Stamp Distributor, Stationery Clerk, &c.
7. Robert B Monsarrat,	250	Making Day Book
8. George A. Young,	250	Searching
9 Joseph Ramsay,	250	Comparing Index of Names and Duplicate Lands Indexes.
10. James Magee,	250	Searching
11. Francis A. Fanning,	250	Making and Indorsing Certificates on Negative Searches, Checking and Entering Satisfactions of Mortgages, &c
12 James F. Swaine,	250	Checking Index of Lands.
13. Bernard Connor,	250	Searching
14. John J. Costello,	230	Making Abstract Book.
15. David Rogers,	210	Making Abstract Book.
THIRTY-SEVEN THIRD CLASS CLERKS.—£90 to £200, by £10.		
1. William H. Jackson,	200	Comparing Transcripts.
2 Albert Nicholson,	200	Searching.
3. Edward Walsh,	200	Searching
4. Thomas M Ray, jun.,	190	Taking Abstracts on Negative Searches.
5. John Bryson.	200	Searching.
6. Samuel F. Bole,	200	Searching.
7. John M Tighe,	200	Searching
8 Frederick F. Armstrong,	200	Entering Index of Names and Duplicate Index of Lands.
9. John J. Armstrong,	200	Searching.
10. Richard M. Cashel,	200	Taking Abtracts on Negative Searches and copying Duplicate Lands Index.
11. Michael Lyons,	200	Searching.
12 Thomas Taylor,	200	Searching.
13. Joseph H. Sheeran,	200	Searching.
14. Douglas Cashel,	200	Indorsing and making up Negative Searches, comparing Negative Searches, and compiling Indexes to Recorded Negative Searches
15. Stephen Joyce,	200	Comparing and giving out Deeds.
16. John J. Corbett,	190	Searching (Common)
17. Henry Courtenay,	190	Comparing Index of Lands
18 Robert J. Kerr,	180	In charge of Transcript room, reconstructing Old Indexes, &c.
19. William H Drennan,	180	Searching
20 John Butler,	180	Searching and Comparing Deeds.
21. John Leyden,	160	Comparing Transcripts.
22 Joseph Maguire,	160	Indorsing Certificates on Deeds, copying Duplicate Day Sheets, &c
23. Henry W. Ball,	160	Comparing Deeds.
24 Robert Burke,	150	Entering Index of Lands, &c.
25. Thomas Horan,	150	Searching (Common).
26. Arthur L Mooney,	150	Comparing Index of Names and Duplicate Lands Index.
27. George A. Kelly,	140	Comparing Abstracts.
28. William Ormsby,	140	Comparing Attested Copies and Duplicate Lands Index, attending Public, &c.
29. Robert Woods,	135	Comparing Day Book and Abstracts.
30. George Boyd,	130	Entering Index of Names and Duplicate Lands Index.
31. Frederick O. Drew,	130	Comparing Attested Copies and Duplicate Lands Index, attending Public, &c.
32. Charles B. Taylor,	110	Copying Duplicate Lands Index, attending to Attested Copies, attending Public, &c.
33. Charles M. Arundell,	170	Entering Index of Lands.
34, 35, 36, 37 (Vacant).		
THREE WRITERS.		
1. Denis O'B. Begley,	78	Copying Headings of Negative Searches, and Writing Copies of Negative Searches.
2. John Gallagher,	78	Endorsing Deeds, comparing Duplicate Day Sheets.
3. Joseph M. Scully,	78	Copying Negative Searches into Record Book, and comparing same.
TWO TEMPORARY CLERKS.		
1. John Griffin,	91	Attending Public.
2. Wm. G. Slacke,	91	Attending Public.
Fourteen Extra Clerks,	No Salary.	Transcribing Memorials and Attested Copies. Paid at the rate of Three-halfpence per folio of Seventy-two words.
Housekeeper,	72	Including £20 per year for servant.
Messenger,	60	£52 by £2 to £78.
Porter,	58	Ditto ditto.
Housemaid,	7*s.* 6*d.* per week.	
Charwoman,	7*s.* 6*d.* per week.	

MISCELLANEOUS.

Returns of Registrar of Deeds.

The number of clerks in the office was fixed by Treasury Minute of 1866, No. 6423. It was reduced by a subsequent minute (No. 9659) in June, 1874, by one clerk. The business of the department has increased by at least one fourth since 1866, as shewn by the fact that in that year the number of Deeds registered was only 10,838, whilst last year, 1877, it amounted to 16,144, being an increase of 5,306. There has been a great increase in all the other branches of the business since 1866, and the tendency in this direction shews no sign of abatement. There are at present five vacancies in the permanent staff. In lieu of four of these vacancies two writers and two temporary clerks are employed.

The delay in filling vacancies, which is often considerable, acts very injuriously in retarding the office work.

The work of the office as now performed (by the Clerks) consists in the keeping and checking of the several books prescribed by 2 and 3 William IV., chap. 87 (1832), and in the performance of the other current duties of the office, such as Searching, comparing Deeds, &c. With the exception of the Duplicate Abstract Book, discontinued since 1857, as unnecessary, and the Consolidated Index of Lands, which was attempted at the end of the first period after the passing of the Act, but was abandoned as utterly useless and impracticable, all the current work contemplated by the Act is performed. For the execution of these duties, and the keeping of these books, the present staff I consider, as shewn by the state of the business at present, very nearly sufficient, if it be kept to its full strength, and the vacancies as they arise are filled up, with less delay than has hitherto been the case. My Lord Percy's report to the Treasury in 1874 testifies that the requirements of the public in this department are "adequately and faithfully met." The business of the office is more forward now than then. It is but right, however, to observe that it will tax the very utmost efforts of the staff to do this current work, and will be a severe and continuous strain upon it. It has not been possible for the last seven or eight years to give the clerks the full amount of vacation to which they are entitled, and which the arduous, and often unhealthy nature of their duties renders it most desirable they should enjoy. Save Christmas Day and Good Friday, there are no holidays in this office, in which respect it is an exception to all other Government departments. The Irish Church Act has been the cause within the last few years of a very great and unexpected increase in the business of this office, all loans by the Representative Church Body, being preceded by long and troublesome searches, and the Deeds relating thereto, generally containing a great number of denominations of land. If there be any further increase in the business of the office it will be absolutely necessary that there should be an addition to the staff. But very recently it was stated that a large increase of work would soon be thrown upon the department by the lodgment of some hundreds of Searches in connection with the acquiring of the site for the New South City Market, under a recent Act of Parliament.

The **Transcription of Memorials** (see form No. 12) is performed by fourteen extra clerks. The accuracy of the transcription is tested by a comparison, made by two staff clerks, of the Transcript against the original Memorial. As many of the Transcripts as possible, including all Transcripts of Judgment Mortgages are compared by these two staff clerks. Attested copies of Memorials, which are all written by the extra clerks, are carefully compared, in all cases, against the original Memorials themselves, by staff clerks, before being delivered to the public. As already shown the entries in the Day Book and Abstract Books, respectively, comprising as they do, all the statutable particulars for those records and for the Indexes, are compared strictly with the Memorial and the Memorial with them, so that for the purposes of registration, nothing can be more absolute than the reliability of these books, as representing in all these essential respects the contents of the Memorial. If, however, a comparison of all the Transcripts, as such, should be deemed necessary, a large addition will be required to the staff.

The Act 2 and 3 William IV., c. 87 (1832), contemplates, in addition to current work, the reconstruction of old Indexes prior to 1832. Some of this work has been partly done, since 1866, and it would facilitate and expedite Searching to have it completed—say, to complete the Index of Names from 1810 to 1828, which would be quite sufficient. If, however, this important retrospective work is to be accomplished, the strength of the office must be temporarily increased.

It will also be necessary, at the end of the decennial, or other period, for the consolidation of current Names Indexes that the Registrar should be permitted to estimate for, and employ additional hands, indeed it would be most advisable that he should be empowered, with the sanction of the Treasury, to employ supplemental clerks, to be made available for any office duty, according as he should find occasion to do so.

The Duty Stamps upon Memorials and Attested Copies amount annually to a considerable sum. These, together with the fees, have created in the past a very large surplus over expenditure, which surplus, as it has arisen solely from the operations of the Registry of Deeds should, most naturally, be made available for the uses of that department.

Return No. 9.

None. On the 15th June, 1878, the earliest **Negative Search** on the File was lodged on the 30th May, 1878, and the earliest **Common Search** on the File was lodged on the 29th May, 1878.

Return No. 10.

	1873.	1874.	1875.	1876.	1877.	1878 to 1st May.
Number of copies of Recorded Negative Searches issued,	100	88	108	119	89	31
Number of Negative Search Dockets issued in each year,	41	39	39	38	40	8

The **Negative Search Record Book** (See Form No. 15), is compared against every completed Negative Search before the same is delivered from the office, which is a comparison of this book to the current moment (See Parliamentary Return 331 of 1877, page 3). This book has been regularly kept up from the passing of the Act of Parliament in 1848, to the present. The steps in the Recording of a Negative Search are, first, copying the Requisition and result into the Record Book. Second, comparing the copy against the original Requisition and the result, or official return of Acts, then the Parties Names or Lands, as the case may be, are indexed in alphabetical order (See Forms No. 16 and No. 17). There are from three to four clerks employed in this work, two being writers.

Return No. 11.

The Salaries are stated in Return No. 8. The second part of this Requisition can only be answered in the terms of the estimate annually presented to Parliament (See Return of General Expenditure at foot). There are no accounts kept in the office of the particular expenditure upon the Registering, Indexing, and Searching Departments. The Clerks, whose salaries vary, are removable from one Department to another, according as the exigencies of the office require.

GENERAL EXPENDITURE.

MISCELLANEOUS.

Returns of Registrar of Deeds.

Year ending 31st March, . . .	1874.			1875.			1876.			1877.			1878.		
	£	s.	d.	£	s.	d.	£	s.	d	£	s.	d.	£	s.	d.
Salaries of Staff, . . .	14,839	9	6	15,141	7	3	17,155	18	0	16,840	11	9	17,223	12	1
Incidental Expenses, . .	25	8	10	*342	0	5	*248	10	2	8	17	9	43	9	10
Transcription of Memorials,	1,143	18	1	1,239	17	8	1,337	10	11	1,512	12	0	1,457	13	4
Totals, . . .	16,008	16	5	16,723	5	4	18,741	19	1	18,362	1	6	18,724	15	3

* The exceptionally heavy expenditure under head of "Incidental Expenses" for the years 1875 and 1876, was caused by payments made by Treasury direction on account of a scheme known as the *Mechanical Index*, and unconnected with the working expenses of the Department.

REGISTRY OF DEEDS OFFICE, DUBLIN,
15th June, 1878.

M. F. DWYER,
Registrar of Deeds.

N B —Forms of books &c., accompanied these returns, but it has not been considered necessary to print them here.—R.J L

SUGGESTIONS and REMARKS of M. F. DWYER, ESQ., Registrar of Deeds in Ireland, pursuant to the request of the COMMISSIONERS.

Suggestions, &c, of Registrar of Deeds.

1. The memorial is the foundation of the registry, and when properly prepared contains the necessary particulars for the completion of its processes in every detail, that is to say, for the entries in the several series of books which constitute the system of registration. This is the primary purpose of the memorial, but in the course of time it has come to discharge another function of much public importance, being receivable under certain circumstances as evidence more or less authoritative, according to its degree, of the deed itself, when the absence from any cause of the latter is sufficiently accounted for. Besides the value of the memorial as legal evidence where admissible as such, it to a considerable extent supplies the place of the deed in a large class of cases where neither the original nor certified copies can be procured for immediate use, and so facilitates in their earlier stages business transactions which otherwise in many instances would never have been proceeded with at all. The very extensive use made of the memorial in its present state for the purposes of evidence, and still more so of information in the investigation of title, has suggested to some the expediency of improving it as an official record in perpetuity of transactions affecting land. If deemed advisable, this might be effected by enlarging the scope of the memorial so as to embrace in addition to its present contents the principal limitations, powers, and trusts as expressed in the deed. The official comparison of the Deed and memorial, if extended to this further matter, would not only necessitate a large increase of the staff but would also cause such preliminary delay in the admission of the deed to registration, as in practice would be found not only inconvenient, but, I fear, almost intolerable. Indeed, if the attempt were to be made, I am apprehensive it would in all probability have to be discontinued after a short experience of its working. The official comparison of the enlarged memorial should, in my opinion, therefore be limited as at present to the particulars required for registration, and the rest of the instrument should depend for authentication on the signatures of the executing parties duly verified, and on the certificate to be signed by the solicitor or party presenting the memorial for registration that it was a true copy, so far as it purported to be so, of the deed. A substantial record of the conveyance might be thus obtained for perpetual use and reference, without any very considerable increase of expense to the public.

The memorials are carefully transcribed in the office, as a rule much within the prescribed time by scriveners who are paid for the work at the rate of 1½*d.* per folio, under the supervision of two staff clerks. It has occurred to some that it would be an improvement on the present practice to have the transcription in the office discontinued, and the public obliged to lodge together with the original memorial a copy to be compared with it in the office, and suitable for binding in volumes. The suggestion is a specious one, but I fear there are more difficulties in the way of its adoption than have been taken into account. To make it at all practicable the memorial itself should, both as to form and contents, be regulated by a fixed standard, and the copy for lodgment should be of uniform size as to length, breadth, shape, and dimensions of margin, so as to admit of being bound up with other copies, as the transcripts are at present in volumes. The enforcement of this necessary correspondence in a variety of small but important particulars between memorials and copies, prepared not merely in all parts of the United Kingdom, but in all parts of the British Empire and of the Continent, very often by persons imperfectly acquainted with the routine details of the registry, would, I apprehend, be found very difficult. In the case of memorials and copies prepared in Dublin and such places, no difficulty would probably arise, but the proportion of deeds presented for registration every year from remote and foreign places is considerable, and any rule or practice which did not apply to them would be very partial, and therefore objectionable in its operation. Any one looking at the way the original memorials even are now prepared, with their blots, erasures, interlineations, bad writing, and inferior vellum, can easily realize the embarrassment, loss of time, and contrivances to which the office would be constantly exposed in the effort to obtain suitable copies for the official records. The first requirement for these is legibility, and in the enforcement of this primary and simple condition, I may say, without exaggeration, that not a day would pass without several deeds having to be rejected at the risk of danger to their priorities. Another consideration is the increased delay preceding registration which would result from the comparison of the entire memorial with the duplicate. This would be felt as a serious inconvenience by solicitors, and constitutes in itself a very substantial objection indeed. It appears to me, on the whole, that the only real alternative is between the present practice of transcription in the office, or printing the copy immediately after the deed is registered. To the latter course there can be no objection, except the undoubted increase of expense it would involve. The objections to the duplicate deed, or copy of the deed, in lieu of the memorial are weighty, particularly on the score of expense.

In addition to the duplicate, or more properly counterpart, deed which would be required for filing, as the original memorial is now filed, there should be a transcript on parchment to be bound up in volumes of 300 each for ordinary use and reference, together with some sort of abstract or *précis* from which to compile the entries, as these could not possibly be taken with sufficient expedition and accuracy from the transcripts in full of the

MISCELLANEOUS.

Suggestions, &c., of Registrar of Deeds.

deeds. If these transcripts were to be made in the office, as the transcripts of the memorials are at present, the cost of scrivenery or printing, as the case may be, would be seriously increased, and whether the work was done within the office, or outside it, by the parties having deeds to register, the expense would be much the same. Not only would the cost of registration be thus largely enhanced in the first instance, but the subsequent cost would be proportionately and permanently increased as necessarily resulting from the great length of the attested copies which the public would require of registered instruments. I am, on the whole, strongly of opinion that the duplicate deed system is too costly and cumbrous to be adopted with advantage.

In Scotland, where it obtains, the transcription of the deeds necessitates the detention of them from the owners for long periods. Under the Irish system the deeds are returned a day or two after registry.

2. The law regulating the proof of deeds for registration might, I think, be revised with advantage. At present deeds cannot be admitted to registration where the attesting witnesses are dead, or where being living, they cannot be got to make the necessary affidavit. This is owing to the stringency of the proof prescribed by the 6 Anne, ch. 2, which requires that the memorial shall be attested by "two witnesses, one whereof is to be one of the witnesses to the execution of the deed."

It is, perhaps, surprising that more inconvenience has not resulted from so limited and peculiar a rule of verification, but in my own experience it has been sufficiently obstructive to render its repeal desirable. It has occasionally, where from any cause the registration of deeds has been delayed, prevented their registration altogether, owing sometimes to the death of the attesting witnesses in the interval, and oftener owing to the refusal of the witnesses from interested motives, and except on their own terms to make the necessary affidavit for registration. It would, I consider, be therefore desirable to afford increased facilities for verifying deeds and memorials, with a view to registration, which might be done by extending to the proof of their execution the ordinary rules of evidence where witnesses are dead, incompetent, out of the jurisdiction, or unwilling.

An old unregistered deed is sometimes the root of a title otherwise satisfactory, and cannot be placed on the registry for want of proof of execution, to the great prejudice of the parties concerned. I incline to think that where deeds thirty years old and upwards are produced out of the proper custody they might be admitted to registration at the instance of persons claiming under the grantee, pursuant to the provisions of 8 George I., ch. 15.

3. As a rule deeds are executed by all the important parties to be bound by them before being presented for registration. There are occasional exceptions however to the rule, and in those cases the practice of the Registry since its commencement has been to enter in the indexes as grantors all persons represented by the memorial as acting in that capacity, even though the deed has not been executed by them at the time of the registration. It would be correct, perhaps, to state that in the great majority of such instances the deed is subsequently executed by those parties, but this cannot be said to be always the case. The practice even in the limited extent to which it obtains, has always appeared to me of questionable propriety, though, no doubt, attended with certain advantages to the public. Had it not been adopted the registration of deeds would have to be frequently delayed until they had been executed by all the principal grantors, to the possible loss of their priorities, or repeated registrations of the same deeds would be necessary as they were from time to time executed, which would entail considerable expense on the public, and increased labour on the office, as there should be new memorials on each further execution, and corresponding entries in all the office books, including the Lands Indexes. The balance of convenience is with the present practice, and few complaints have been made about it, but as it is open to objection on principle, I think it right the Commissioners should have their attention called to the subject.

4. The 2 & 3 William IV., ch. 87, by prescribing the present county and baronial arrangement for the Lands Indexes may be supposed to have contemplated as a necessary condition of registration that the memorial should contain the requisite particulars as to local situation for the compilation of the Lands Indexes in conformity with the arrangement in question. The condition, however, was not made absolute or general, and is regarded as compulsory only to the limited extent of correspondence in that respect with the deeds. Accordingly, when the county and barony are not stated in the deed, their omission from the memorial cannot be objected to. Memorials, however, which are defective in the above particulars of local situation cannot of course be entered in the Lands Indexes which are kept in county, city, and town books, subdivided as to the county books into baronies, and in the case of some cities, into parishes, and owing to the impossibility of doing so, it was considered necessary with a view to the completeness of the Lands Index system to institute two supplementary indexes, one known as the "No Barony Book," for memorials not giving the barony, another as the "No Parish Book," for memorials not giving the parish (in a city), and another known as the "General Index," for memorials not giving either county or barony, city or parish, or town, or any information beyond the names of the lands or premises. These are the Lands Indexes for the two last mentioned classes of deeds, and are merely alphabetical in their arrangement. The "No Barony" and "No Parish" Index date from the year 1828—the "General Index" from 1833—when, subsequently to the passing of the 2 & 3 William IV., ch. 87, in 1832, it was found that its provisions were compulsory only to the limited extent already noticed in respect to the statement of local situation. Prior to these years the lands mentioned in deeds which did not specify the counties or baronies, city or parish, or corporate town were not entered in any Lands Index, and such deeds can only be referred to through the Names Index. This is still the case with respect to lands conveyed by general terms, without either name or local situation being assigned to them, as where A B grants to C D "all his real and freehold property wheresoever situate in Ireland," or uses like general words.

It is estimated that the proportion of unindexed lands to the whole, was one per cent., prior to the commencement of the "No Barony," "No Parish," and "General Index" Books, and this probably is about the proportion now represented by these sets of Indexes. As the entries in these Indexes diminish of course proportionately the entries in the Lands Indexes proper, little or no additional labour is thrown by the keeping of the former upon the Lands Indexing Department. It is otherwise, however, with the searching branch of the business, for in the case of searches against lands and names, or lands only, the scope of inspection is considerably enlarged and complicated by the necessity of resort to the "No Barony," "No Parish," and "General Index" books, where as before shown the local situations are imperfectly described, or not described at all. A search for acts by a particular person or persons for a given period against the lands of Ballybrack, in the barony of Rathdown, and county of Dublin is simple and easy in itself, so far as searching upon the barony of Rathdown is concerned, for all the references to be taken thereon relate only to a Ballybrack in that barony, but upon the "No Barony" book it is different, in searching which, the references taken may relate to all the Ballybracks in all the baronies in the county of Dublin, and as to the General Index, in searching it, all the references taken relate to all the Ballybracks in all the baronies and counties in Ireland. It can from this be easily seen how the omission in deeds to define the local situations of lands has tended to increase the labour of searching, and hamper its operation with much irrelevant matter. It would be, therefore, a clear improvement

and a substantial one if the statement of local situation required for the entries in the Lands Index could be enforced in all deeds presented for registration, or under certain circumstances in an accompanying certificate or affidavit, so as to enable the "No Barony" Book and "General Index" to be discontinued without prejudice to the public or injury to the comparative completeness of the present system of registry by Lands Indexes. One would suppose it should not be difficult to comply with so simple a requirement as the specification in a deed of the place, that is, of the county and barony, city and parish, or town, in which the lands or premises dealt with by it are situated Although the frequent omission of these particulars from deeds cannot perhaps be accounted for by any inherent difficulty in obtaining them, which I consider out of the question, having regard to the variety of sources from which the necessary information may be derived; neither, I think, can it be fairly assumed that it proceeds in the majority of cases from mere carelessness, as may be inferred from the occasional and sometimes remarkable defectiveness in this respect of conveyances received for registration from the Landed Estates Court, of which the following instances will serve as examples :—

See abstracts following, viz. :—

1871. 20. 300.
„ 21. 1
„ „ 2
1870 10. 80.
1875. 9. 189
} p. 130.

1875. 11. 241
„ 33 272.
1877. 18 295.
1878 19. 151.
} p. 131.

It is less easy to understand why cases of the kind in question should occur in official conveyancing, particularly in the Landed Estates Court, with all the means and sources of full and correct information at its command than in ordinary deeds, often hurriedly prepared on sudden emergencies by professional men, strangers to the lands dealt with, from imperfect instructions, and with no other materials for the most perfect than the title deeds, themselves defective in the statement of local situation. An error or an omission in an earlier deed becomes thus perpetuated in many subsequent ones affecting the same subject, and there can be no doubt that the omission of the county and barony, or city and parish, or town, as the case may be, in the class of conveyances from the Landed Estates Court above referred to, will be a fruitful source of faultiness in future deeds derived under them, as any discrepancy between the former and the latter in the description of the lands will, of course, through fear of possible inaccuracies, be carefully and even advisedly avoided.

It is not easy to suggest a remedy for the evil in question, which will be adequate, and, at the same time, not too trenchant in its operation for the practical working of the Registry. It has been recommended by some that the Registrar should have power to reject deeds which do not give the county and barony, city and parish, or town; but though such a proceeding might be ultimately effectual for its object, or nearly so, it would in the meantime be attended with an amount of public inconvenience, and of loss, it may be, to individuals in excess perhaps of the improvement thereby effected. Circumstances are easily conceivable under which compliance with any hard and fast rule as to statement of local situation would be impracticable, as where parties resident abroad, and without access to or command over their title deeds have occasion to deal with their property, or when the deeds, even when within reach, do not contain the information required. A more feasible suggestion is that, when the deed does not give the county and barony, the omission should be supplied by an affidavit accompanying the memorial at the time of registration. This proposal is free from the more serious objections to the former one, though in a limited number of cases, even it may have the effect of delaying registration to the possible loss of priority, as the same practical difficulty may be found in procuring the needful information for the affidavit as for the deed and memorial. There may not be much in this objection, and wherever any such difficulty occurred, it might be obviated by allowing the deed to be registered in the Index of Names and General Index as at present, on the production of an affidavit explaining why the information as to the local situation could not be obtained. An affidavit of this kind would operate as a check on mere carelessness, and the entries in the General Index, "No Barony," and "No Parish" books would, in the course of time, be reduced within a very *minimum*, without prejudice to the elasticity of the present system, which is one of its most valuable features. There is precedent in the 30th sec., 2 and 3 William IV., ch. 87, for allowing an affidavit to be used for supplementing the omission of the local situations in deeds executed in the interval between the passing of the 9th George IV., ch. 57, and the 2 and 3 William IV., ch 87, but as the statement of the local situation, or of the lands, as in the case of wills and of "general charges," is a very material element to be introduced into a deed or will from a document *dehors* the instrument memorialized, the conditions should be very strictly defined under which it should be receivable.

Cognate to this subject is another class of deeds in which *all* the lands mentioned are described as being situated in the several counties and baronies, or cities and parishes, thereinafter enumerated by name, without specifying the particular barony or county, city or parish, in which each parcel or denomination is situated, as for instance :—

See abstracts following, viz. :—

1877. 14. 179.
1878. 31. 30.
} pp. 132 to 135.

When the memorial only follows the deed in this indiscriminate form of statement, the registrar cannot object to it, although the amount of unrequited and unrecognised labour thereby cast upon the office is sometimes enormous, especially in the case of large family settlements. (See 1878, B 31, No 30, just cited), dealing with denominations described as being in several baronies, as each and every denomination has to be entered in the Lands Index on every barony in which the deed and memorial describe it as situate, without extra charge for the waste of official labour thus often wantonly caused. A separate and further charge for every additional entry rendered necessary by this carelessness of statement would at all events indemnify the office for the work done, if it did not, as I have no doubt it soon would, put an end to the abuse without resort to any more stringent measure. This subject was particularly adverted to by Mr Moore, the Registrar of Deeds when the 2 and 3 William IV. ch 87, was under consideration, and would no doubt have been provided against in the Act, had the Bill been submitted to him for revision.

5. There is a peculiar class of deeds affecting real property which, as dealing with lands without giving either denomination or local situation, cannot be entered either in the Lands Index (county or barony, city or parish,) or General Index. The nature of these deeds will be understood by the following examples —

See abstracts following, viz. :—

1828. 839. 185. 563. 185.
„ 839. 189. 563. 189.
1876. 21. 229. „ „
} p. 136.

Certificates of the appointment of assignees in Bankruptcy, transferring to the Official Assignees all the real and personal estate of the bankrupt, belong to the above category. Instances of general acts are also sometimes found in conveyances from the Landed Estates Court in conjunction with grants of specified subjects, and in the memorials, of recorded ownerships of land in the Record of Title Office. The following are instances of both kinds :—

See abstracts following, viz. :—

1859 42. 217.
1872. 19. 141.
} p. 137.

Year and Day of Registering, Volume of the Year, and Number of the Memorial.	Name of the Instrument.	Date of the Instrument	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term	Name, Description, and Situation of the Premises	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage, or Absolute Conveyance.
			Grantor	Grantees.			
1871. 20. 300. July 6.	Memorial Recording Title.	1871. July 5.	Landed Estates Court. Jameson, John. Jameson, James. Jameson, Andrew. Jameson, Henry.	Jameson, John, and Others.	—	Longhboy, bounding upon Bow-lane, upon Church-street, and upon Smithfield. (*No situation.*)	Certificate of Recorded Ownership.
1871. 21. 1. July 6.	Memorial Recording Title.	1871. July 5.	Landed Estates Court. Jameson, John. Jameson, James. Jameson, Andrew. Jameson, Henry.	Jameson, John, and Others.	—	Longhboy, mearing on Smithfield, and on Bow lane. (*No situation*)	Certificate of Recorded Ownership.
1871. 21. 2. July 6.	Memorial Recording Title	1871. July 5.	Landed Estates Court. Jameson, John. Jameson, James. Jameson, Andrew. Jameson, Henry.	Jameson, John, and Others.	—	Loughboy, mearing on Smithfield, and on Bow-lane. (*No situation*)	Certificate of Recorded Ownership.
1870. 10. 80. March 30.	Memorial Recording Title.	1870. March 25.	Smith, George. Smith, Frances (for Crofton, Edward H. R. & Minor). Landed Estates Court.	Recorded Ownership.	—	West Ballingarry, Cullenbegg, Ballingarry, West and Middle. (*No situation.*)	Certificate of Recorded Ownership.
1875. 9. 189. 27 Feb	Conveyance.	1874. Dec. 18.	Landed Estates Court. Rawson, Richard. (Owner)	Rawson, Richard.	Consideration, £290. Retained.	Market-street, otherwise Main-street, in Town of Ballinglass. (*No situation*)	Conveyance.

Year and Day of Registering Volume of the Year, and Number of the Memorial.	Name of the Instrument.	Date of the Instrument.	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term	Name, Description, and Situation of the Premises.	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage, or Absolute Conveyance.
			Grantor	Grantee.			
1875. 11. 241. 15 March.	Conveyance.	1875. March 12.	Landed Estates Court. Gallagher, Francis, sen. Gallagher, Catherine. Gallagher, Alexander. Byrne or Gallagher, Mary. Gallagher, James. Gallagher, Eliza. Gallagher, John. (Owners.)	Gallagher, Edward.	Consideration, £3,500.	Drumhazel, otherwise Lurgyirnok. Curragh, otherwise Curragica. (*No situation.*)	Conveyance.
1875. 33. 272. 3 Aug.	Conveyance.	1875. July 28.	Landed Estates Court. Church Temporalities in Ireland, Commissioners of. (Owners.)	M'Evoy, Patrick.	Consideration, £64.	Premises on the east side of Chapel-lane. (*No situation.*)	Conveyance.
1877. 18. 295. 1 May.	Conveyance.	1877. May 1.	Landed Estates Court. Somerville, Mary, and Another. (Owners.)	Lynch, Patrick, and Others.	Consideration, £1,705.	Bath Lodge, or Rape Park, or Kingstown House and demesne, known on Ordnance Survey as part of the Townland of Rahoon. (*No situation.*)	Conveyance.
1878. 19. 151. 27 April.	Conveyance.	1878. April 26.	Land Judges. Chancery Division, High Court of Justice, Vize, Nicholas O. M. (Owner.)	Blake, John A.	Consideration, £1,575.	Knockillha, or Knockillera. (*No situation.*)	Conveyance.

Year and Day of Registering. Volume of the Year, and Number of the Memorial.	Name of the Instrument.	Date of the Instrument.	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term.	Name, Description, and Situation of the Premises.	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage, or Absolute Conveyance.
			Grantor.	Grantee.			
1877. 14. 179. 29. March	Conveyance.	1877. March 27.	Landed Estates Court Blessinton Estates Act, 1846. Trustees of, and others. (Owners.)	Cowper, Charles S., Honorable.	Consideration, £10,000. £110,000 retained.	Madras-place, Saint Vincent-street, Sarsfield-street, O'Connell-street, Geraldine-street, Goldsmith-street, Berkeley-street, Berkeley-road, Parish Saint George. Great Britain-street, Parish Saint Mary. Gardiner's-lane, Ground at the rere of the south side of Mountjoy-square, Mountjoy-square, South, Middle Gardiner-street, Mountjoy-square, West, Grenville-street, Lower Temple-street, Belmont-place, Mountjoy-square, Gardiner-street, Parish Saint George. Barrack-street, Wood-lane, Hendrick-street, Queen-street, Tighe-street, Parish Saint Paul. Laneway leading from Upper Gardiner-street to Kelly's-row, Parish Saint George. Cherry-lane, Parish Saint Mary. Drumcondra-road, Circular-road, North, Eccles-lane, Lower, Jones'-road, Clonliffe road on the Canal side in Richmond-lane, Margaret-lane, Richmond place, Portland-place, Saint George's-place on North Circular-road, Portland-row, Sherrard-street, Portland-street, Ground at the rere of Temple-street, Gardiner-street, Upper, Mountjoy-square, West, Gardiner's-place, Mountjoy-square, North, Gloucester-place, North, Gloucester-place, Lower, Mecklenburgh-street, Lower, Lower Gloucester-street, Montgomery-street, Mabbot-street, Rutland-street, Lower, Belle-street, Gardiner-street, Lower, Summerhill, Rutland-place (off Upper Rutland-street), Upper Rutland-street, Great Charles-street, Wellington-street, Paradise-row, Mountjoy-street,	Conveyance. N.B. — Each of these streets has to be entered in the Lands Index *four times*, *i.e.*, once on the Parish of Saint George, once on the parish of Saint Thomas, once on the parish of Saint Mary, and once on the parish of Saint Michan, although situate in only *one* parish of the *four*. This is due to the careless manner in which the streets are grouped together over the four parishes, without definitely assigning each particular set of streets to its own particular parish.

1878. 31. 30. 5 July.	Marriage Settlement.	1878. June 26.	Clanmorris, Lord Baron.	Trench, Frederick, Le P., Hon., and others.	Consideration, Marriage.	Clare, Galway, with its subs., viz.:— Clare, Lough George or Lough George, Kinnisky, Cahirgown or Cahergowne, Mountagh, Carry or Curraghmore, Crusheen, Kinnisky Village, Mountagh, Snellacys, Cahergown Bog, Clougher, Carrakeel, Rampark, Curragh Meadow, Blake's Holding, Abbey, Lower Division, Clare, Galway, Poulbin Castle, Clare, Galway, Ernanmore, Clonbiggan, Carrakeel Islands, Bog. CLARE and DUNKELLAN, Co. Galway.	Marriage Settlement. N B. — Each of these *Lands* has to be entered twice on the Lands Index, once in the BARONY OF CLARE, and once in the BARONY OF DUNKELLIN, whether it be situate in both baronies or not.
						Brady's-row (off Mountjoy-street), Wellington-place, Middle Mountjoy-street, Monks-row (now called Walsh's-row), Dorset-street, Upper, White's-lane, Granby-row, Drumcondra-lane, Mary's lane, Boot-lane, Pill-lane, Arran-street, East, Mary's-abbey, Moore-street, Denmark-street, Cole's-lane, Bolton-street, King's Inns-street, Capel-street, Loftus-lane, Cross lane, Mecklenburg-street, The Bull Park, Lane at rere of King's Inn-street, Parishes SAINT GEORGE, SAINT THOMAS, SAINT MARY, and SAINT MICHAN, City Dublin. Clonliffe East, Parish Saint George, Co. Dublin. Clonliffe West, Daneswell or Cross Guns North, Bo. Coolock, Co. Dublin. Castleknock, Bo. Castleknock, Co. Dublin. Straletterdallan, Shannony, East, Killymore, Tullymuck, Crosh, Crossballonirl, or Uppertown, Bo Lower Strabane. Gortinagin, Lurganboy, Beltany, Lislappe Meenagarragh, Glashygolgan, Upper Learden, Lower Learden, including the sub denominations called Corickbeg, Corickmore, Carnargan, North Lislea, South Lislea, Carrigans. Bo. Upper Strabane, Co. Tyrone.	

Year and Day of Registering, Volume of the Year, and Number of the Memorial.	Name of the Instrument.	Date of the Instrument	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term.	Name, Description, and Situation of the Premises	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage or Absolute Conveyance.
			Grantor.	Grantee.			
1878. 31. 30. 5 July.—*con.*	Marriage Settlement.	1878. June 26.	Clanmorris, Lord Baron.	Trench, Frederick, Le P., Hon, and others.	Consideration, Marriage.	Ballindoolagh or Ballindowlagh, or Ballindooly, Town Galway. Kiltrogue, and sub-denominations, Bo. Clare, Co. Galway. Sharrigarriffe or Shrangduffe, or Shragorrive, Carrownahan or Foxford, Quinbegg, Quinmore or Carrowdown, Tundrobegh, Cloughcultooky Castle or Kinbegg, Clidagh or Tonbede, or Tondubehy, Killedereagh or Clone, Listerrane, Foxford with the Barrack, Fishery Markets, Fairs and Mills, and also the Iron Works, Forges, and Furnaces, and the Lands and Parks of Bellas, with its subs, in and about the Town of Foxford, Moygrove, Curlemon Village, Townamore, Belass Mill, Cregnareagh, Culass, Houghey's Park, Dempsey's Park, Melvin Park, Connor, Foxford Tolls, Carnamarient Mountain, Bos. GALLEN and TYRAWLEY. Liscoyle, Upper and Lower, Craughgerugh, called Liscoyle, Classaduffe, Cahirbeture, Lisnacour, Lissfinegane or Lessfinegane, or Carrowlissan, Loughboy, Carrowbrack or Carrowbrack, Clegragh or Cregreagh, The Island of Conreagh or Cornagh, Townecartoon, Carrowenraam, Cloughcoolcarron, Gradogue, Carrowreagh, Ballynakta or Ballynaly, Cloughnegeenagh or Cloughaarregeenagh, Upper Tonlegee, Lower Tonlegee or Liswalkerbourke, Knockitolane or Logninraghee, Parks or Coolgadd, Coolgadd Pollye, Gurran, Mountpleasant, Knockatothane, Burren, Carrareagh, Knockatothane, Carrareagh, Cloughanageere, Parks, Summerhill, Hanley's Parks, Slishmeen, Ballinamudda, Gradogue, Bos. CARRA and KILMAINE.	N.B. — Entered on two Baronies. See Note on preceding page. Ditto.

Weatherford, Bo. Carra.	
Knockilbegan or Knocknaleggan, or Knockdelegan, Shevereoe, Woolanvooly or Poolavola, or Poolaveela, Poolaveela Mills, Clareen or Claureen, Bo. Kilmaine.	N.B.—Entered on *three baronies*, see note on page 7.
Lisrabert, formerly called by the names of Mullintornan and Lisrobert, Bo. Carra.	
Premises in the town of Mayo, Ballynagillan, Shangcanagh, Lynagh, Ballymagowran, The Gorts of Knockcassine, Ballinaville, Dooross, Kilbride or Cloonball, Ballynaglane or Knockbegg, Coolnean, Ballymurcheg, Ballymalavelt, Cloonball, Ranacreeva, Knockdarohy, Curry M'Manus, Drishanagh, Coolmeen, Clover, East Curry, West Curry, Derry Curry, Togher Martin, Togher Martin Bog, Kilbride, Lahanagh, Shinanagh, Mayo Village, Bos CLANMORRIS, CARRA, and KILMAINE.	
House, Deerpark, and Demesne of Ballinaboot, or Noseborough or Newbrook, Ower or Oure, or Nower, Carrinneagh or Cornenagh, or Carrownagh, Creggarrow or Cheggarow, Rahinegoeloniagh or Rahnagoelough, Leacarrowslegart, Ardnicole or Ardneoyle, Lisnalowre or Lisnalowre, Kilgranny or Kilgranna, Cornclassin, Lecarrowtinny, Knocknelintag, Kiltaghleran, Rahinecross or Rahnecross, Creggannally or Cregnally, Castlebawn, Togher, Cashell or Cashill, Bos. KILMAINE and CARRA.	N.B.—Entered on two baronies.
Killenbrenine or Kilnebrenine, Carrowmoore or Carrownore, Monteabryna, Moycolga or Moycalga, Ballyhenry, Bos KILMAINE and CARRA, Co. Mayo.	
Terrenure, Cammamage or Kimmage, Mansion House and Demesne Lands of Fortfield and Templeogue, Bo. Newcastle, Co. Dublin.	

Year and Day of Registering, Volume of the Year, and Number of the Memorial.	Name of the Instrument.	Date of the Instrument	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term	Name, Description, and Situation of the Premises.	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage, or Absolute Conveyance.
			Grantor.	Grantee.			
839. 185. 563185. 1828. 7th Oct.	Release.	1828. April 5.	Crooke, Elizabeth. Crooke, James. Crooke, Thomas M. Stewart, John, Rev. Sandy, William.	Townsend, John S. & Wade, William B.	—	*The Estates of Robert Lord Baron Rossmore.*	Release.
839. 189. 563189. 1828 8th Oct.	Release.	1828. Aug. 18.	Mullins, Richard, Hon. Mullins, Edward, Hon. Mullins, Frederick, Hon. and Rev.	Ventry, Lord.	—	*The Estates of said Lord Ventry from a sum of* £25,000.	Release.
1876. 21. 229. 11 May.	Assignment (in Trust).	1860. March 2.	Kingston, Earl of.	Boyle, Alexander, and Another.	Consideration, £97 11*s.* 7*d.* due £733 9*s* 4*d.* £150.	Castle and Demesne of Mitchelstown. (*No situation*) Moneys to which said Earl of Kingston was entitled under Report of 31 July, 1854, and Decree of 3 May, 1854, in cause of Hoops *v.* Kingston, or to which he might hereafter become entitled in respect of debts or liabilities of late George Earl of Kingston paid off by said Robert Earl of Kingston, *or in respect of any annuities or charges which affected said unsettled Estates, either exclusively or in exoneration of said settled Estates,* and for costs or otherwise, and all other claims of said Earl of Kingston, if any, *against said unsettled Estates,* or against *the personal Estates of George late Earl of Kingston.*	Assignment to secure consideration and further sums or debts, not to exceed £1,200 (inclusive of said sum of £150).

N.B. The above three are "General Charges."

Year and Day of Registering, Volume of the Year, and Number of the Memorial	Name of the Instrument.	Date of the Instrument	Names of the Grantors, and one or more Grantees.		Consideration, Rent, Renewal Fines, Term.	Name, Description, and Situation of the Premises.	General Nature of the Instrument, whether Trust, Marriage Settlement, Mortgage, or Absolute Conveyance.
			Grantor.	Grantee.			
1859. 42. 217 December, 22.	Conveyance.	1859. Dec. 20.	Landed Estates Court.	Lawless, Philip.	Consideration in Deed.	*Yearly Rent of* £81 15*s.* 5*d.*, *created by Indenture of* 26 *Nov*, 1855.	Conveyance.
1872. 19. 141 May, 28.	Recorded Ownership.	1872. May 28.	Landed Estates Court. Donovan, James.	Donovan, James.	—	Premises in Town of Killarney, Premises in Bishop's-lane, in Killarney, Bo. Magonihy, Co. Kerry. Perpetual yearly rent of Three pounds, sterling, created by Indenture of 27 October, 1787.	Recorded Ownership.

N.B. These are "General Charges."

MISCELLANEOUS.

Suggestions, &c., of Registrar of Deeds

Deeds of this class can be entered only in the Names Index where, since the year 1849, they have had a special column for themselves, under the head "General Charge," but they were always treated as "Acts," and returned as such on searches when brought to light by the perusal of the memorials, which is always necessary in those periods prior to the institution of the Abstract Book. The policy of admitting such deeds to registration has been questioned upon much the same grounds, if not stronger, as have been urged against the registration of deeds not disclosing the local situation. It is not easy, however, to conceive how either class of deeds could be so excluded or even postponed to other registered deeds consistently with any compulsory scheme of land registry, unless indeed the omission of the specific and necessary particulars for full registration, from the deeds in question could be assumed to proceed from such culpable carelessness in their preparation as would justify extreme penalties. But how can this be taken for granted in view of the experience to the contrary furnished by the carefully revised conveyances from the Landed Estates Court above noticed, conferring indefeasible titles to property, incapable apparently of identification or description except by such general terms as limit the registration to the General Index, or in some instances, to the Names Index only? It must be confessed at the same time that such deeds from the vague and imperfectly defined subjects of their operation, constitute a difficulty in the working of the registry system, and throw on the Searching Department, and those who are answerable for the correctness of its operations, great trouble and responsibility.

6 The construction of the Lands Index on the basis of the Ordnance Survey would reduce considerably the entries in the index, but presents difficulties of a practical kind which are entitled to serious consideration. In the preface to the authorized "Index of the Ordnance Maps and Survey of Ireland, 1861," it is stated that "in order to facilitate the search for any townland having more than one name, such as "Ballydaly or Derrynagall," in the parish of Kilbride, barony of Ballycowan, King's County, it will be found under both names." The natural inference from this statement would be that in the opinion of the compilers it was expedient to retain on the Survey the denominations, when more than one, by which the townlands were previously known, with a view, no doubt, to preserve the certainty and facility of identification thereby afforded. The statement in question, however, is not at all in accordance with the fact, and the instances where the townland has more than one denomination assigned to it by the Survey are rare exceptions to the rule. Indeed, the exceptions are so few in number that they cannot be said to derogate from the universality almost of the rule, and it is not very clear on what grounds they were permitted to interfere with the principle of the Survey, which in the matter of nomenclature, appears to have been the substitution of a single name for the plurality of names previously in use. One of the ancient denominations is generally selected for the purpose, but this is not by any means always so, and there are instances where an entirely new and modern name has been adopted to the total effacement of the old one, nothing being left to imply or suggest privity or connexion between the common subject of both. A case in point is now before me in a memorial of a conveyance from the Landed Estates Court, of the lands of Ballyskenagh, otherwise *Mountheaton*, in the barony of Clonlisk, King's County, registered this year—1878, in Book 28, No. 241. In this case Ballyskenagh, which is evidently the older denomination, does not appear upon the Townland Index at all, while Mountheaton, palpably a modern name, appears upon both index and map.

If after the adoption of the survey as the basis of the registry, a deed or affidavit for a judgment mortgage describing the lands in the above memorial by their ancient and generally known denomination were presented for registration, they should be rejected, and the parties interested be told what perhaps they had not known before, that the lands had another name assigned to them on the Ordnance Maps and Survey. In fact, there could be no dealing with land requiring registration, without resorting in every instance to the Ordnance Maps and Survey in order to obtain the necessary information respecting the official denomination thereby given to the lands; and though in all important transactions such a reference may not be inconvenient, it would, I fear, be quite otherwise in a very numerous class of cases, where the parties were in humble circumstances, such as tenants registering their leases, and the legal advice at their command not always perhaps the best. It is necessarily, but too confidently, I think, assumed as an indispensable condition of the proposed plan, that the Townland Index to the Survey and Maps is in such general use, so well understood, and so entirely easy of access, as to justify the exclusion—for it comes to that—of deeds from registration, which are not prepared in conformity with them. Even when the Townland Index is available, how can a person ignorant of the change of name, as in the instance cited, from Ballyskenagh to Mountheaton, ascertain that fact by reference to the Ordnance Townland Index? He will not find Ballyskenagh in that index; and what is there to cause him to refer to Mountheaton?

Judging by the frequency of the statement to that effect, it seems to be generally supposed that the Landed Estates Court has availed itself of the facilities afforded by the survey, to eliminate the *alias* names, and that in its deeds the lands are always conveyed according to the standard denominations on the Ordnance Maps and Survey. This, however, is quite a mistake. The conveyances by the Court, on the contrary, provide against any of the ancient names being lost, by granting the lands under their names in full, as set out in the title deeds, sometimes with, and sometimes without, any reference to the names on the Survey, but *always* so as to necessitate corresponding entries in full in the Lands Index. The case above cited is an instance where the lands are described as "Ballyskenagh otherwise Mountheaton." There, as already noticed, Ballyskenagh, which is evidently the ancient name, does not appear at all on the Survey, but it is made the primary denomination in the conveyance from the Court.

Take another instance. By deed of conveyance from the Landed Estates Court, registered on 21 January, 1860, in Book 2, No 298, the Court conveyed "all that and those the lands of Ballyneety North, and Ballyneety, in the indenture therein and hereinafter mentioned described as being commonly called or known by the name or names of Parkshamsallagh, Castlefield, House Quarter, and Clogheen, situate in the barony of Coonagh, and county of Limerick." These lands are granted without reference to the name on the Survey, and, as a matter of fact, the four last mentioned lands do not appear in the Ordnance Townland Index to the Survey at all, nor, I presume, on the Survey itself. It would be a waste of time to multiply instances of this kind, so numerous are they in the records of the Registry. The Ordnance Maps are not legal evidence of any fact appearing on the face of them, and properly so, for it cannot be denied that carefully as they have been made, they are not free from inaccuracies, and that too, in particulars less open to misconception than the names of lands. The boundaries defined by them are not deemed sufficiently reliable to be made binding on proprietors, and it is an unquestionable fact that in many instances the names of the townlands on them do not correspond with the title deeds or with local usage. It is not easy to understand on what grounds higher authority can be claimed for these maps in the matter of *names* than in the matter of *boundaries*, considering their mutual dependence upon one another; for if the boundaries be incorrect, the name assigned to the lands within their *ambit*, must to a corresponding ex-

tent, be inaccurate. If the Survey be wrong as to *area*, it cannot be right in its entirety as to *name*, for the townland boundary is the basis and limitation also of the townland nomenclature; and an error in the former must *pro tanto* vitiate the latter. The Landed Estates Court declines to be bound by either; and so long as it does so for sufficient reasons, it seems questionable whether the Survey could be made with safety or success the foundation of the registry system. The consolidation of the nomenclature of lands effected by the survey may be safe and useful for public purposes, but it involves the suppression of names and descriptions, sometimes denominations in chief, sometimes secondary or subdenominations by which the lands have been known and dealt with for ages, and still most useful, if not always essential as they sometimes are to their identification. If the information derived from these sources be important, the proper place for its preservation in the future, as in the past, is the Registry of Deeds. To disassociate henceforth the lands from the names in full under which they appear in the Index of Lands since its commencement would destroy the continuity of their history, and eliminate henceforth from the Registry many subordinate but important aids for the elucidation of difficulties connected with the identification of lands to be found in the *alias* denominations taken from the title deeds of past periods

The Survey proceeds generally on the assumption that an *alias* is merely a *synonym*, and that a single denomination is equivalent to any number of denominations as regards the extent of land designated. I consider this quite too wide a generalization, and if it be so to any extent, however limited, it would preclude the possible adoption of the Survey as a legitimate basis for the Lands Index

My inquiries in the office have led me to believe that lands are sometimes conveyed in ordinary deeds by names that are not to be found at all in the Ordnance Townland Index to the Survey, and searches are frequently directed against lands by names not one of which appears on the maps and survey according to the above presumably correct index. In these cases, for the future, there could be no registry, as there would be no denomination for the lands on the Ordnance Survey. The suggestion that the name on the survey should be adopted for the purpose of registration without prejudice to the statement of the other names in the deeds, would leave many of the foregoing objections untouched, while it would altogether alter the present character of the Lands Index, which would no longer harmonize with the title deeds, as regards the denominations of the lands and their consequent identity.

It is to be observed that as the townland would be the unit of registration, the effect would be a large increase, in one direction, of the entries on the Lands Index. For instance, there are, I believe, 63,000 townlands in Ireland; to open a different heading for each of these would be a most troublesome task, and the risk of error in misplacing lands on the index would be greatly multiplied Lands are now entered in the Barony, No Barony, and General Index Books under about 8,700 different headings. Deduct that number from 63,000, the number of townlands, viz.:—

63,000
8,700

and the result, 54,300, gives the number of additional headings to be opened, over six times as many as at present exist.

7. The affidavit of perfection should I think be retained. It imparts confidence in the authenticity of the records and memorials, and distinguishes the executing parties to the memorial from others.

8. The only objection to the registration of wills in the Deeds Office being made compulsory is that it would practically necessitate a double registration, as all wills are at present lodged, transcribed, and indexed in the Probate Court Office. All deeds affecting lands, such as disentailing deeds, and all enrolled deeds should I think be registered in the same office as other deeds.

9. With respect to local registries, the expediency of which has been sometimes suggested, their organization, to be safe, should be as perfect as that of the central registry, which I apprehend will not be found an easy matter to guarantee, and I doubt if the use made of them would be considerable. District registries existed in Scotland for a long period, and the experience apparently of their working has led to their abolition.

10. In the case of printed memorials furnished by the Landed Estates Court, and other officially prepared memorials, it would be advisable to have duplicate and *certified* copies lodged with the deeds, of a uniform size, so as to admit of being bound up in the transcript volumes, and so save the expense of copying in the office.

11. Since 1869 the Duplicate Quinquennial Index of Names (Sectional) has been practically abolished, and instead of it a Decennial Prospective Surname Index substituted This arrangement has been found so great an improvement upon the previous system that I would recommend its continuance I am of opinion that the Indexes of Names should be consolidated into double dictionary order—*i.e.*, of Christian as well as surnames, at the end of every Quinquennial, and not, as at present, of every Decennial period The column in this Index headed "General Charge" might more accurately be headed "General Act," as it frequently relates to general releases and other dealings which cannot properly be called "charges."

It would be most desirable that the reconstruction of the Index of Names from 1800 to 1832 should be completed, for which purpose it will be necessary to provide additional clerical labour, which I recommend may be supplied with as little delay as possible for this as well as for other useful purposes

12 The Decennial Consolidated Index of Lands cannot be carried out, and is unnecessary for the reasons stated in my answer to Question 4 of the Queries addressed to me on the 16th of May last, to which I beg to refer The columns in the Index of Lands books, headed respectively "Parish" and "Page of the Day Book," might be abolished, as they are of no use whatever, but on the contrary, cause a waste of space and of time. The latter column is not unfrequently a source of confusion to the public, when taking references upon this index.

13 The second column in the Abstract Book, "Name of the Instrument," should be abolished; it is entirely useless and misleading. All the information contained in it, and more, is given with accuracy in the eighth column This book has not been kept in duplicate since 1867, nor do I see any necessity that it should be so kept for the future.

14 The Recorded Negative Search Book is of little use to the office, and the number of copies of recorded negative searches ordered in the year is not considerable The keeping of this book delays the delivery of negative searches to the public, inasmuch as all negative searches must be previously copied into it. If, however, the system of "exceptions" upon requisitions for negative searches did not exist, this book would be of more value to the public, as each search would then be more complete in itself. I am of opinion that, apart even from this consideration, "exceptions" should either be abolished altogether, or that the same fee should be charged for them as for "acts" on a search. These "exceptions" give much trouble to the officials. The Stamp Act of 1870 abolished the duty of 3*s*, payable on every "act" returned on a negative search. The fee duty of 1*s*. is all now payable on each "act," and I do not hesitate to recommend that a like fee should be charged for each "exception," or that the liberty to except particular instruments from a search, negative or common, should be abolished.

15. The transcription of memorials would be materially shortened by discontinuing the copying of the affidavit of verification and the jurat, which are both

MISCELLANEOUS.

Suggestions, &c., of Registrar of Deeds.

in point of fact outside the memorial itself. Should it be necessary to refer to the affidavit or jurat, the original memorial could be consulted at once, at any time.

16. The form of the Certificate of Registration admits of abbreviation.

17. The department is at present very circumscribed as to the size and number of its apartments. The public and official searching rooms are altogether too small, and are, moreover, inconvenient in their construction. The entire wing of this building, now occupied by the offices of the Probate Court, might be devoted to the Registry of Deeds, if it were deemed convenient to remove the Probate offices into closer proximity with the Court itself.

It is difficult to transact such important and critical business as searching in apartments of insufficient size, and which are consequently almost always overcrowded; and in the interest of the public, the legal profession, and the department itself, I would respectfully suggest that immediate attention be given to this matter.

It would be only just to the hard-worked officials of this office that they should have the same holidays, and the half-holiday on Saturday, as are granted throughout the year, in the other Government Departments.

18. In conclusion, I feel bound to observe that, while the business of the department has been progressively increasing within the last four years, it has been carried on during that period under more than ordinary disadvantages, resulting from the suspension of promotions to the first class, and the discontinuance of appointments to the junior class; vacancies, as they arise in the latter, being supplied, sometimes after long intervals, by writers and temporary clerks. At the present, there are six vacancies on the regular staff, inadequately supplied by five temporary clerks and writers, the effect of which is not only to reduce the present working strength of the office, but to impair for some time to come its future efficiency, as the want of junior clerks, who should be now in training, comes to be more and more felt. The rumours, too, which have been industriously kept in constant circulation for some years past, of wholesale changes have necessarily produced a sense of insecurity in the whole body of the clerks, and exercised a disturbing influence in many ways, from which they cannot be too soon relieved in the interest of the public service in the Department, and in fairness to the official authority which is responsible in heavy securities for the correctness of the Registry records and searches.

M. F. DWYER, Registrar.

Registry of Deeds Office, Dublin.
14th October, 1878.

Transfers in Sectional Index, 1870 to 1874.

RETURN of the NUMBER of BLOCKS or TRANSFERS in the Quinquennial (Sectional) Index of Names; period 1870 to 1874.

No. of Volumes in each Letter.	No. of Sections in each Letter.	Letter and Section in which Block or Transfer occurs.	No. of Blocks or Transfers.	Date when Block or Transfer first occurred.
A, 1,	24	A, An.	1	6th April, 1874.
		„ Ar.	1	23rd November, 1874
B, 3,	8	B, Ba.	1	15th November, 1874.
		„ Be.	1	3rd December, 1874.
C, 4,	8	C, Ch.	1	13th August, 1872.
		„	1	25th June, 1873.
D, 2,	9	D, De.	1	11th December, 1874.
E, 1,	22	E, Em.	1	30th July, 1873.
F, 2,	7	F,	No TRANSFERS.	
G, 2,	9	G,	Do.	
H, 2,	6	H, Ha.	1	4th November, 1878.
I, 1,	19	I, Ir.	1	14th August, 1874.
J, 1,	6	J,	No TRANSFERS.	
K, 1,	9	K, Ke.	1	12th August, 1874.
L, 2,	7	L,	No TRANSFERS.	
M, 3,	7	M, Ma.	1	28th September, 1874.
N, 1,	6	N,	No TRANSFERS.	
O, 1,	20	O,	Do.	
P, 1,	10	P, Pi.	1	11th July, 1874.
		„ Po.	1	9th October, 1874.
		„ Pr.	1	31st July, 1873.
Q, 1,	1	Q,	No TRANSFERS.	
R, 1,	7	R, Ra.	1	14th December, 1874.
S, 2,	18	S, Sh.	1	13th May, 1874.
T, 1,	9	T, Te.	1	27th July, 1874.
		„ Tu	1	6th March, 1874.
U, 1,	13	U, Ur.	1	26th July, 1871.
V, 1,	6	V,	No TRANSFERS.	
W, 2,	7	W, Wa.	1	5th December, 1874.
Y, 1,	6	Y,	No TRANSFERS.	
Z, 1,	6	Z,	Do.	
Totals, 35,	250		21	

Registry of Deeds Office,
Dublin, 7th January, 1879.

M. F. DWYER,
Registrar of Deeds.

MISCELLANEOUS.

Transfers in Sectional Index, 1875 to 1879.

RETURN of the NUMBER of BLOCKS or TRANSFERS in the Quinquennial (Sectional) Index of Names; period 1875 to 1879.

No. of Volumes in each Letter.	No. of Sections in each Letter.	Letter and Section in which Block or Transfer occurs	No. of Blocks or Transfers.	Date when Block or Transfer first occurred.
A, 1,	24	A, Ab.,	1	14th March, 1878.
B, 3,	8	B, Ba.,	1	3rd December, 1878.
C, 5,	9	C, Ch.,	1	24th March, 1877,
		„	1	1st January, 1879.
D, 2,	9	D, Do.,	1	3rd January, 1879.
E, 1,	22	E, Em.,	1	2nd January, 1879,
F, 2,	8	F,	No TRANSFERS.	
G, 2,	9	G,	Do.	
H, 2,	6	H, Hi.,	1	30th July, 1878.
I, J, 1,	I, 18	I,	No TRANSFERS.	
	J, 6	J,	Do.	
K, 1,	9	K, Ke,	1	20th December, 1878.
L, 2,	7	L,	No TRANSFERS.	
M, 4,	9	M, Mc,	1	6th November, 1878.
N, 1,	6	N,	No TRANSFERS.	
O, 1,	21	O,	Do.	
P, Q, 1,	P, 10	P,	Do.	
	Q, 1	Q,	Do.	
R, 1,	7	R,	Do.	
S, 2,	18	S,	Do.	
T, 1,	9	T,	Do.	
U, V, 1,	U, 13	U,	Do.	
	V, 6	V,	Do.	
W, 2,	7	W,	Do.	
Y, Z, 1,	Y, 6	Y,	Do.	
	Z, 6	Z,	Do.	
Totals, 37,	254		9	

Registry of Deeds Office,
Dublin, 7th January, 1879.

M. F. DWYER,
Registrar of Deeds.

Transfers in Prospective Consolidated Index, 1870 to 1879.

RETURN by the Registrar of Deeds (Ireland) of the NUMBER of BLOCKS or TRANSFERS in the Current Prospective Consolidated Surname Index, kept in the Office.—Period 1870 to 1879.

Letter and Vol.	No. of Surnames.	No. of Blocks or Transfers.	Date when Block or Transfer first occured
A, . .	338	26	28th April, 1873.
B, Vol 1, .	192	12	28th November, 1873.
„ 2, .	519	44	8th January, 1870.
„ 3, .	156	37	28th April, 1871.
C, „ 1, .	547	64	18th October, 1870.
„ 2, .	394	42	16th November, 1871.
„ 3, .	299	19	18th February, 1874.
D, „ 1, .	397	19	18th June, 1873.
„ 2, .	410	56	19th September, 1871.
E, . .	217	28	21st March, 1871.
F, „ 1, .	243	12	3rd April, 1873.
„ 2, .	199	8	23rd May, 1871.
G, „ 1, .	350	30	14th January, 1871.
„ 2, .	304	22	17th December, 1872.
H, „ 1, .	301	22	7th July, 1871.
„ 2, .	536	59	10th April, 1871.
I, . .	80	9	5th January, 1872.
J, . .	125	8	29th May, 1874.
K, . .	395	40	14th September, 1871.
L, „ 1, .	147	16	14th July, 1874.
„ 2, .	468	29	21st December, 1870.
M, „ 1, .	957	146	5th January, 1872.
„ 2, .	640	72	31st March, 1871.
„ 3, .	432	42	8th March, 1872.
N, . .	220	19	29th April, 1871.
O, . .	258	22	20th July, 1874.
P, „ 1, .	276	18	8th July, 1872.
„ 2, .	314	14	7th October, 1872.
Q, . .	43	2	8th July, 1878.

MISCELLANEOUS.

RETURN by the Registrar of Deeds (Ireland), of the NUMBER of BLOCKS or TRANSFERS in the Prospective Consolidated Index, 1870 to 1879—*continued.*

Transfers in Prospective Consolidated Index, 1870 to 1879.

Letter and Vol	No. of Surnames.	No. of Blocks or Transfers.	Date when Block or Transfer first occurred.
R, „ 1, .	242	24	26th August, 1870.
„ 2, .	409	17	22nd February, 1872.
S, „ 1, .	364	33	1st July, 1871.
„ 2, .	241	14	22nd November, 1872.
„ 3, .	279	14	29th September, 1874.
T, . .	474	42	31st May, 1873.
U, . .	43	3	21st October, 1872.
V, . .	91	6	9th December, 1872.
W, „ 1, .	212	12	5th July, 1873.
„ 2, .	269	9	28th June, 1875.
Y, . .	34	3	6th June, 1877.
	Total number of surnames. 12,415	Total number of transfers: 1,114*	

* Of this number more than one tenth has been caused by the introduction of new surnames, and names of new companies and societies, and such like, not occurring in previous decennial period.—M. F. D.

Observations of Registrar of Deeds on those Transfers.

OBSERVATIONS on the above RETURN.

There are no Blocks or Transfers of any kind in the Statutable Consolidated Indexes for completed periods. The *Prospective* Surname Dictionary Index, to which the foregoing return refers, is not directed to be kept by any of the Statutes regulating the Registry of Deeds. It is used by the Officials only, and it is not proposed to place it in the hands of the public unless it be constructed on parchment. An Index in Dictionary order—in some cases in Dictionary Order of both Christian and Surnames, in other cases in Surname Dictionary Order only—was attempted some time after the commencement of the decennial period, 1860–69. It never could be kept up to time, and was found so practically faulty that the Index now under consideration—in Dictionary Order of Surname only—was adopted for the current decennial period, 1870–79, and is kept up from day to day without any difficulty, besides presenting other features which render it the most suitable for a current Prospective Index.

Prior to the commencement of a Decennial period it is necessary to calculate the space which each surname is likely to occupy, and to open a heading under that surname. The calculation is based upon the number of entries occurring upon each surname during the previous Decennial periods, allowing in each case a fair amount of space over and above for a possible additional number of entries.

When it is seen, however, that the number of Memorials registered during the *nine* years nearly passed (1870 to 9th December, 1878), of the *current* Decennial period, 1870–79, *exceeds* the number registered in the previous *ten* years, or *complete* Decennial period, 1860 to 1869, by 13,010 Memorials, it will be perceived that some blocking and a necessity for transfers must have necessarily arisen in some cases, and it is only wonderful that under the circumstances the number of these transfers was not considerably greater; the majority have occurred within the last three years. See following return:—

Number of Memorials registered during Decennial period, 1860–69 inclusive, *ten* years, - - - - - - - - - -	119,187
Number of Memorials registered during current Decennial period, from 1870 to 9th December, 1878, not quite *nine* years, - - - - -	132,197
Excess in favour of current Decennial period, - -	13,010

It could hardly have been foreseen at the commencement of the current Decennial period that it would so much exceed its predecessors in the number of Memorials registered.

Other and more common causes of transfers always exist—for instance, new individuals from time to time succeed others in official or other capacities, viz.:—as Assignees in Bankruptcy, Public Officers, Directors, or Trustees of Banks, of Insurance and other Companies and Societies, Public Departments, such as the Church Temporalities Commissioners for instance, all of which had no existence in such capacities in our previous Index Books at the time the Prospective Index Books where their names should appear were spaced. Take for instance the names of the two Assignees in Bankruptcy—assuming the removal from any cause of both or either of these gentlemen and that new Assignees having different surnames from their predecessors are appointed, as a matter of certainty the entries under these surnames in the current books would become at once so numerous as to render one or more transfers unavoidable. Surnames which have not appeared in the books during the previous Decennial periods sometimes occur, as well as surnames altogether new—such cases of course necessitate the opening of new headings. No practical inconvenience, loss, or danger whatsoever has ever been caused by these transfers in making searches or otherwise. Transfers are as inseparable from the carrying on of a Prospective Dictionary Index of any kind, as they are from a Merchant or Bankers' Ledger, and are found equally useful and easy of reference in both cases. If the Prospective Indexes be constructed as I have proposed, for Quinquennial and not Decennial periods, the necessity for transfers will be reduced to a minimum, as the books can be made to contain, for the five years, a greater number of pages in proportion to the ten years books, without being too bulky, and thus greatly increased space can be given to each surname. Mr. Dillon's brass roller Index would be subject to the same liabilities as to insufficient space for entries, and it is obvious that to cut his Index band, in order to take away from or add to it will be a much more dangerous process than to transfer from one page to the other with the pen. Any transfers, however, can, under the present system, certainly be more accurately made and more safely and easily arranged and accounted for than on Mr. Dillon's Index, with its multiplicity of cuttings and joinings. The complaint, therefore, about blockings in the books, has

Registrar's observations on Transfers.

no force whatever as bearing on the case. When Mr Dillon's Index gets blocked he proposes to insert a piece into the brass coil to receive the further entries coming at the place. To do this he has to take up the band, to cut across, and then insert the required length of band by joining it at both ends into the roll, to effect which he has to make holes, to insert brass pins, to clinch them, and smooth the joints. Now, unless these critical operations be carried on with mathematical precision, the band will not run square. It is plain that a joint of this kind will take some time to make properly, and with all the care possible there will be a certain clumsiness about it. Surely it could not be made as easily as a transfer could be entered in another page of a book by the pen. Too much reliance should not be placed on the permanence of these joinings. The fact can only be decided by long wear and tear. The original *natural continuity* of the indexes which is now preserved in our *paged books* would be utterly destroyed by cutting and adding to the bands. This continuity of paging is essential to show that the indexes have not been tampered with. The adding in of pieces, whether on linen or metal bands, where proper spaces for the entries had not been left, would alone be an awkward, troublesome, and tedious process.

* * * * *

(Signed),

M. F. DWYER, Registrar.

December 17th, 1878.

On Lieut.-Col. Leach's Indexes and Scotch Search Sheets.

OBSERVATIONS upon the REGISTRY INDEXES, suggested by Lieut-Colonel LEACH, R.E., in his pamphlet of 1861, and upon the SCOTCH SEARCH SHEETS submitted to the COMMISSIONERS, at their request, by M. F. DWYER, Esq., Registrar of Deeds in Ireland.

The Index of Names proposed by Colonel Leach (see under name of "Atkinson"), is in every respect inferior to either of the Dictionary Indexes now in use. It must be cumbrous and confusing, as it gives a mass of information which it is not the function of any Index of Names, properly so called, to supply, and thereby is more likely to weary and delay than to facilitate the operation of searching.

Suppose it is required to make a search against the name of "John Atkinson" on an Index, say for ten years, constructed on Colonel Leach's plan—the searcher would be obliged to look at every Abstract relating not alone *to every person of the name of "Atkinson"* during that period, but relating also *to every person joined with the "Atkinsons"* in these particular transactions, during the same time. He would have to pick out from amongst, perhaps, half a dozen other grantors, both of different Christian names and different surnames, the name of "John Atkinson." On the existing system of double Consolidated Indexes a searcher can turn at once to the page where the reference to all acts of every "John Atkinson" for ten years appears, and by looking at the County Column, he can see at a glance if the county in which is situate the land he is searching after is mentioned, and this he can do without the trouble of wading through a whole Abstract, in nine cases out of ten, of irrelevant matter, as would be necessary under Colonel Leach's system.

In searching after "John Atkinson" on the double Dictionary Index of Names, at present, the searcher first takes down all the references by "John Atkinson" to affect lands in a particular county. Let us say he is directed to search from 1860 to 1869, for all acts by John Atkinson to affect the lands of Blackacre, in the barony of Armagh, and county of Armagh. He turns to "John Atkinson" on the Dictionary Index, takes down the references where county Armagh appears, which are nine in number, and then proceeds to consult the nine Abstract Books referred to. All this can be done in less than ten minutes.

Now, upon Colonel Leach's plan, he would have to read all the Abstracts on the name of Atkinson for that period, which are exactly 240.

The course adopted by the official searcher, of first taking down the references from the Names Index or Lands Index, as the case may be, and then *perusing only the special Abstracts* relating to the subject-matter of the search, is a much safer, clearer, and more expeditious practice than reading all or a great part of every Abstract, as a person should on Colonel Leach's plan, whether it related to the search or not. The weariness and fatigue, to say nothing of the totally unnecessary labour which would be induced by such a system as Colonel Leach's can only be appreciated by those practically acquainted with searching.

To *write* an Abstract in full after even one name would render it practically impossible to keep the Names Indexes up to time—to write it after every name would throw them into hopeless arrear. The Names Indexes would be further in arrear than the Lands Indexes are now, and it would be impossible to bring up a search on them to within at least 48 hours of the current moment, as is now done every day. The one Abstract now in use in the Registry of Deeds, which it takes time to write out and compare, fully answers all purposes of reference for the Indexes, both of names and lands. By Colonel Leach's calculation, there should be at least eight Abstracts on an average written out and compared for every deed registered under his system.

It is not possible to conceive how printing could be carried on with either accuracy or advantage in books from day to day. Colonel Leach says (page 15 of his pamphlet): "It would be impracticable to afford the same amount of information by manuscript," alluding to his own plan, "owing to the space it would occupy, and the labour and expense and the liability to error it would entail." He proposes, however, to do all this by the ordinary mode of printing, it is to be presumed, inasmuch as he suggests no particular method, nor indeed shows in any practical way how printing could possibly be used. Persons conversant with printing are not of opinion that it could be applied at all to daily transactions so vast, complicated, and diffused, as are those of the Registry of Deeds. Mechanical difficulties of the most insurmountable kind would arise at every step, especially in classifying and printing under a vast variety of headings a mass of daily technical entries. It is impossible, with any appliances in ordinary use, that entries could be properly or quickly printed upon pages of books; nor, supposing that it could be done, would anything be gained in the end, the only difference between the operations of the pen and the press must be the usual one of writing or printing the entry. The books should be lifted, opened, and the proper place for the entry turned to, in both cases alike, and the adjustment for bringing the type, or whatever it may be, to bear, and completing the posting operation would take men more time than writing the seven or eight words of the entry with the pen, and it should not be forgotten that, whenever an entry is made in an original Index, it must be *carefully checked*, to see that it is in its *proper place*.

The books of the Registrar General's Office, which are few and simple in themselves, as contrasted with the Registry of Deeds Books, are never printed until after the expiration of a period complete in itself. In the Offices of the Probate Court, the same course is pursued in reference to their very simple calendars, and nevertheless they are in arrear. A written Index for current periods is always used.

MISCELLANEOUS.

Registrar's observations on Lieut.-Col. Leach's Indexes and Scotch Search Sheets.

The Index of Names and the Index of Lands at present in use in the Registry of Deeds are both dictionaries of reference to the Abstract Book, which is common to both these Indexes, and is a carefully and skilfully prepared epitome of the principal particulars of the memorial. The "year, book, and number" in either Index refers at once and readily to the particular abstract required, and the consulting of these Abstract Books, *i.e.*, taking the light and handy volume down from the shelf, and reading the abstract referred to, can be done in a much shorter time than reading the abstracts on the Indexes themselves, as Colonel Leach proposes. Should further information be wanted than the Abstract Book discloses, the same references, *i.e.*, "year, book, and number," refer to the original memorial, or its transcript, which can be consulted with great ease. One abstract may supply the usual particulars as regards a number of surnames, or a number of denominations of land. Colonel Leach's system needlessly and uselessly reproduces on his Indexes the whole abstract in full on each grantor's name, and, if the lands be in different baronies and counties, on the Lands Index. There may be 10 names and 50 lands in one abstract. A person may require to search after only one grantor or one denomination of land. On the Office Indexes he can do this, but Colonel Leach's Indexes give the full abstract in connexion with each particular grantor, and there may be several grantors in each abstract. Colonel Leach's Indexes also give the full abstract for each parcel of land, a great deal more than the searcher requires, and consequently an irrelevant and confusing superfluity of information.

One obvious effect of the consolidation of the Abstract with the Index Books would be to necessitate a great multiplication of the latter in their consolidated form. Now, the searcher parts with the Index when his references are taken down. Under Colonel Leach's system he must keep the book until the Abstracts were read through, and his search completed for that period, to the delay and exclusion of all other persons requiring to consult the same volume meantime. For one year at present there are, say 50 Abstract Books. If the particulars of these books appeared on the Indexes only, the length of time necessary for consulting the Index would be greatly increased, as the Index would, under Colonel Leach's system, have to supply the place not only of an Index volume but also of the several Abstract Books to which it might refer.

To construct an Index of Lands upon Colonel Leach's system would be even a more difficult and laborious task than to construct an Index of Names. A separate heading, in Dictionary order, should be opened for each of the 63,000 townlands in Ireland, as well as for each street in a city or town. This would be most troublesome—it would make the Lands Indexes more numerous and more bulky, and the risk of misplacing entries on this Index would be very great.

The lands are now entered on the Barony, No Barony, and General Index Books under about 8,700 different alphabetical headings; deduct that number from 63,000, the number of townlands, and the difference, 54,300, gives the number of additional headings to be opened, or over six times as many as at present exist.

Transfers occur to some extent upon the present system, notwithstanding the experience, skill, and care which are brought to bear in estimating prospectively the space required for each letter of the *twenty-six letters of the alphabet in these books*. To estimate the space required for *each denomination of the* 63,000 *denominations of land* would be next to impossible. It could not be done without the certainty of numerous and probably complicated transfers. The prospective spacing of the books, difficult enough already, would become even more difficult, if not entirely impossible, if the Abstracts were to be printed or written in full after each denomination of land.

Supposing that the townland of Ballynagall, in the county Waterford (Colonel Leach does not specify any barony—see his form of Lands Index), were associated with one, two, or three hundred other townlands in the same deed, according to his plan all these several townlands should appear under the heading of "Ballynagall, in the county Waterford," although several might be in a different county or counties; and in like manner Ballynagall should appear under the individual heading of every other townland in the same deed, no matter in what county situate. To say nothing of the uselessness of such a system for all practical purposes, and the inevitable cumbrousness of its books, see what an amount of writing and comparison and checking it would involve. The Index of Lands, under such a system, would be *years in arrear*.

The Scotch Search Sheet would appear to be also a kind of posting under each denomination of land, as in an account in a ledger, of all the particulars of every deed affecting it. In the case of large estates this would be particularly troublesome, and the danger of posting a deed under a wrong denomination very great. A search sheet seems also as if it were a search made by anticipation, although it may never be required. The Search Sheet system is still on its trial, and there are many professional and official opinions opposed to it, including the Deputy Keeper of the Records, the Keeper of the Register of Deeds, and the Deputy Clerk Registrar. It is carried on side by side with the previously existing system.

In Scotland there would not seem to have ever been anything like a good Lands Index—the Search Sheet may be an attempt to supply this defect. One cannot conceive how it can be as reliable in its contents, or as expeditiously made as our present Lands Index.

It is most probable that if the Irish system of Indexes and Abstract Books had prevailed in Scotland, the resort to the expedient of a search sheet would never have been thought of in the General Register of Sasines Office.

(Signed),

M. F. DWYER, Registrar.

5th May, 1879.

Returns and replies of Recording Officer.

EXTRACTS from REPLIES of the RECORDING OFFICER to QUERIES in reference to the RECORD of TITLE OFFICE.

In order to have an estate placed on the Record there must have been a Conveyance thereof or a Declaration of Title thereto made by the Court under *section* 4 of the Act of Conveyance, and under *section* 6 a Declaration of Title may, if the parties so desire (immediately on the execution of such Conveyance or Declaration), be placed on the Record.

The steps taken in either such case are that the original Conveyance or Declaration is forwarded from the Registrar's office of the Court to the Record of Titles Office, and immediately on the receipt thereof in the latter office the date of the receipt of the Conveyance or Declaration is placed thereon by the Recording Officer or his assistant, and the estate is placed on the Record by giving the Conveyance or Declaration of Title a numerical folio number, and indexing it in the book kept for the purpose called "the Register of Recorded Owners."

The estate is then considered as recorded, but before any dealing with such estate will be noted on the Record, a memorial of the fact of recording under section 16 of the Act must be filed in the Registry of Deeds Office. The draft of this memorial is prepared by the solicitor concerned for the recorded owner, and approved of in the Record of Title Office. This memorial, when engrossed as an ordinary memorial of registration of a deed, is sealed in the Registrar's office of the Court and signed by the Registrar; it is also sealed with the seal of the Record of Title Office and signed by the Recording Officer, and when so perfected is lodged by the Recording Officer's assistant in the Deeds Registry Office, and a memorial of the registry thereof is made by the latter officer on the original folio of the recorded estate. Should the party obtaining a Conveyance or Declaration of Title from the Court omit to lodge in the Registrar's office of the Court the requisition under section 7 of the Act that the estate, the subject of such Conveyance or Declaration, should not be recorded, the Registrar on the eighth day after the execution of such Conveyance or Declaration transmits same to the Record of Titles Office, and immediately on receipt thereof in the latter office the same steps are taken to place the estate on the Record as above detailed in cases where it is the desire of the parties to have the estate recorded.

Section 51 of the Act provides for placing on the Record estates the subject of a Conveyance or Declaration of Title by the Court, although an interval has elapsed since the execution of such Conveyance or Declaration of Title.

The steps taken in this case are that the party claiming to be owner of the estate under the Conveyance or Declaration of Title files in the Record of Titles Office an application stating shortly the Conveyance or Declaration of Title and subsequent dealings with the estate, and submits that on proof of the facts stated he is entitled to have his title recorded. An advertisement stating the object of the application is published. Searches are directed by the judge, and if the result of the searches be satisfactory, and no cause be shown to the contrary, the Court will make an order that the estate be recorded.

The original Conveyance or an official copy of the Declaration is in such case brought into the office and placed on the Record as in the case first mentioned; and in addition what is officially termed a "Final Entry" (being a statement of the proceedings taken to have the estate recorded, and containing a Declaration by the Court that the person therein named be recorded as owner of the estate) is prepared and printed, and finally bound up and numbered as forming part of the folio.

. . . . . .

3. There are no searches made in the office. An inspection of the folio shows the ownership and the position of the estate as regards all charges and incumbrances thereon.

The owner or any incumbrancer is entitled to have a copy of the folio on payment of 1½*d.* for every seventy-two words and an office fee of 2*s* 6*d.*

The following are the only certificates issued by the issue, viz:—

A Certificate of Title.
A Land Certificate.
A Certificate of Charge.
A Certificate of comparison with the Record
A special Land Certificate.

The Certificate of Title consists of a duplicate of the recorded Conveyance, with a note at foot signed by the Recording Officer of the fact of the estate having been recorded.

A Land Certificate is issued in cases where the Conveyance has not been executed in duplicate.

A Certificate of Charge may consist of the original document creating the charge, with a note thereon signed by the Recording Officer that such charge has been recorded against the estate and its priority, or it may be a separate document.

At the instance of the owner or an incumbrancer producing the owner's Certificate of Title, it is compared with the folio and a certificate is added signed by the Recording Officer stating that the Certificate of Title corresponds with the Record as of the date of the Certificate.

A special Land Certificate under section 20 of the Act may be issued where the recorded owner is desirous of selling or mortgaging the estate.

4. There are not any searches made in the office, see, however, answer to query number 3.

The public have the power of examining the Alphabetical Index of recorded owners.

They are not entitled to examine any other of the Records.

5. The present staff of officers consists of a Recording Officer and one assistant.

The present Recording Officer is Mr. James M'Donnell, who is also examiner to Judge Ormsby; and the assistant is Mr. Richard Topham, who is also first assistant to the Registrar of the Court.

The Registrar and the other examiner of the Court are also (under the 29 and 30 Vic., cap. 99) empowered to discharge the duties of Recording Officer.

. . . . . .

The present staff is sufficient for the work, but, by reason of both officers having other duties to perform, some inconvenience may occasionally arise in consequence of their not being able to give immediate attention to the business of the Record of Title Office.

The salary of the Recording Officer is £200 a year, in addition to his salary of £900 a year as examiner to Judge Ormsby.

The assistant's salary is £75, in addition to his salary of £300 a year as first assistant to the Registrar of the Court.

. . . . . .

The NUMBERS of TITLES RECORDED ANNUALLY since the ACT came into operation were as follows:—

Year ending 2nd November.			
1866 . 94	1867 . 118	1868 . 110	1869 . 60
1870 . 69	1871 . 42	1872 . 26	1873 . 20
1874 . 41	1875 . 26	1876 . 26	1877 . 29

MISCELLANEOUS.

Returns and replies of Recording Officer

Titles recorded under section 4 and 6 of the Act are recorded immediately on receipt of the Conveyance or Declaration of Title in the office, and the first and last step in such case may be said to take place simultaneously.

The number of titles recorded under the 51st section is 60.

The dates of first and last steps taken in each of these cases were given, varying in time from two months to about a year and a half, but generally about nine or ten months, but it is not thought necessary to insert them in detail.—R J L.

As a rule every Conveyance or Declaration of Title placed on the Record has a map of the estate annexed.

In every case of issuing a Land Certificate, where the Conveyance or Declaration of Title had a map annexed, a copy of such map is annexed to the Land Certificate.

The map in such case is prepared by the Ordnance Department and certified by the officers of that department in the same manner as the map on the original Conveyance or Declaration of Title.

. . . . . .

Where a duplicate of the Conveyance or Declaration is executed with a view to having the estate recorded, the office expenses are nil, no matter what the annual rental or value of the estate.

Where a duplicate has not been examined the office fees would be 10*s.* stamp on the Land Certificate, 10*s* 6*d.* for the map, and 3*d* per folio of seventy-two words engrossing fees on the Land Certificate.

In recording an estate under the 51st section the office fees are :—

	s.	*d*
If the application be made within a year from the execution of the Conveyance or Declaration, where the value does not exceed £1,000, ...	5	0
For every additional £500 or any part thereof, ...	2	6
If more than a year has elapsed since the execution of the Deed or Declaration the fees are—		
If the value of the estate sold, or of which the title shall be judicially declared, do not exceed £10,000, then for every £100 of value a duty of, . .	10	0

Exceeding £10,000 and not £25,000, a duty of 10*s* per cent for the first £10,000, and for every subsequent £100 of value 5*s* per cent.

Exceeding £25,000, then for the first £10,000 a duty of 10*s* per £100; and for every £100 in value, between £10,000 and £25,000, a duty of 5*s.* per £100, and for every subsequent £100 of value 2*s.* 6*d.* per £100.

The expenses of recording an estate of the value of £4,000 would be—

1st. In case the Conveyance or Declaration was prepared in duplicate :—

	£	*s.*	*d.*
Preparing memorial of the fact of recording, including engrossment and attendance at Stamp Office and Recording Title Office, ...	2	0	0
Stamp duty and Registry fees (one denomination), ...	0	10	6
Parchment, ...	0	1	3
	2	11	9

2nd. In the case of a Conveyance or Declaration not being prepared in duplicate, and where, as a consequence, the recorded owner would require a Land Certificate as evidence of his title, the expenses would be as follows .—

	£	*s.*	*d.*
Memorial, &c, as in last case, . .	2	11	9
Solicitor's charges for preparing the Land Certificate, ...	1	10	0
Stamp duty, ...	0	10	0
Map, ...	0	10	6
Engrossing fees (average say), . .	0	5	0
	5	7	3

3rd. In the case of an application under 51 section :—

	£	*s.*	*d.*
Items 7 to 8 in schedule of fees, . .	13	5	2
And in addition—			
For additional perusals (estimated), . .	0	10	6
Advertisements (estimated), . .	2	0	0
For services of notices to tenants, .	0	10	0
Extras (estimated), ...	1	0	0
	17	5	8

I have been favoured by a solicitor with three bills of costs for recording three estates under the 51st section. The particulars are as follows .—

Bill No. 1. Estate containing . Purchase money £2,000. Amount of costs, . . .	139A. 2R 8P.	£22 8 9
Bill No 2. Estate containing . Purchase money, £695. Amount of costs, . . .	189A. 0R 25P.	£14 17 10
Bill No. 3. Estate containing . Purchase money £4,950 Amount of costs, . . .	486A. 3R. 23P.	£14 6 0

If it is desired to record land which has never passed through the Court there must be added the expense of a Declaration of Title or Parliamentary Conveyance. The amount of such costs would vary according to the nature of the title number of tenancies, &c. They would seldom be less than £70, or more than £150, in the case of an estate of 100 acres valued at £200 a year.

13. The fees paid in the office, by stamps, for the year ending the 31st December, 1877, amount to £44 12*s.* 1*d.*

The scrivenery fees for the same period, paid in cash, amount to £3 10*s.*

Signed, JAMES M'DONNELL.

8/6/'78., R.O.

EXTRACT from LETTER of the RECORDING OFFICER of 23rd July, 1879.

"I stated in my letter of the 25th ult. that the number of estates removed from the Record was 10. I have been requested by the O'Conor Don to say that in that number are included those which were removed in consequence of the estates having been sold in the Landed Estates Court, and in such cases it is obvious that the closing of the Record was necessitated by the new sale, and did not indicate any wish on the part of the recorded owner to remove the estate from the Record. I estimate that the cost of closing the Record in an average case would come to about £5."

PAPER sent in by Mr. W. F. LITTLEDALE, Solicitor, as requested in QUESTION 1133.

W. F. Littledale's letter Returns.

The following are some of the defects in the Record of Title Act and Rules which I have observed.—

1. The Act did not make compulsory the recording of all Conveyances and Declarations of Title made by the Landed Estates Court.

2. The Record should have been made as open to inspection as the Registry of Deeds.

3. Drainage charges were excepted (sec. 12), and it was, therefore, necessary to go to the Registry of Deeds Office to search for them.

4. The registry of the memorial of the fact of recording under s. 16 had not the slightest effect in closing the Registry of Deeds against registration of dealings with recorded land, no separate index was kept in the Registry of Deeds Office, nor was any attempt made, so far as I know, to ascertain whether lands had been recorded or not, and, as a matter of fact, deeds were registered in the Registry of Deeds Office, which dealt *solely* with recorded land.

5. No equitable mortgage could be given by mere deposit of the recorded deed or land certificate, and banks were thus made hostile to the measure.

6. The requirement in the rules that the copy of a deed to be retained under sec 29 should be a printed copy was a very great hindrance to the success of the Act.

7. Power should have been given to record all trustees of land, whether with a power of sale or not, noting, when necessary, on the record the fact that there was no power of sale.

8. By section 51 the application was to be made "in a summary manner without petition." The rules, however, made the proceeding the same as that by petition, merely altering the name.

9. The rules made the procedure much more intricate and tedious than the Registry of Deeds system.

Rule 8 required a day's notice to be given of an appointment at the office; and, though this was not insisted upon, the officer could have done so at any time.

Rule 17 gave the judge power to require an applicant to proceed for a declaration of title or a sale, an expense which few owners with Parliamentary Titles would care to incur.

Rule 18 made a sale by the Court of a recorded estate on a creditor's petition far more troublesome and expensive than a dealing by an owner. The owner could by a transfer in statutory form in one day convey his estate, and the purchaser could get out a new land certificate, which would have the same effect as a Conveyance to him from the Court. Whereas if a creditor petitioned the Court a new rental should be settled, upon notice to tenants and adjoining owners, unless dispensed with; and it will be found, I think, that sales of recorded estates by the Court have been very much more expensive than the transfer of recorded land by the owner.

In my opinion the Recording Officer should devote his entire attention to the office, and that any disputed point should be at once adjourned into the Judge's private chamber to be dealt with in a summary manner by the Judge.

That whether the Record of Title is continued as a separate department or not, all Conveyances with Parliamentary title should be kept in a separate registrar, and should not be registered by memorial, but in duplicate and with a map.

(Signed), W. F. LITTLEDALE.

9, Upper Ormond-quay.

RETURN of the NUMBER of JUDGMENT MORTGAGE AFFIDAVITS filed in the PLEADINGS DEPARTMENT of the COURT of QUEEN'S BENCH in the undermentioned years.

1863	564	1866	356	1869	238	1872	215	1875	188
1864	442	1867	274	1870	251	1873	212	1876	171
1865	391	1868	216	1871	199	1874	179	1877	161

28th May, 1878.

(Signed), HUGH LANE, Master.

RETURN of the NUMBER of AFFIDAVITS to REGISTER JUDGMENTS as MORTGAGES filed in the COMMON PLEAS OFFICE in each of the FIFTEEN YEARS previous to month of JANUARY, 1878.

1863	237	1866	132	1869	144	1872	99	1875	151
1864	175	1867	128	1870	151	1873	114	1876	134
1865	165	1868	123	1871	150	1874	143	1877	153

(Signed), C. G. BURKE, Master Common Pleas Division.

EXTRACT from RETURNS of the REGISTRAR of JUDGMENTS.

—	1863	1864	1865	1866	1867	1868	1869	1870	1871	1872.	1873.	1874.	1875	1876.	1877.
Judgments Registered, . .	5,065	4,304	4,040	3,991	3,949	3,759	3,828	4,124	4,272	4,387	5,141	4,961	4,887	4 142	4,449
Judgments Re-registered, .	598	620	4,824	713	462	358	469	2,794	464	275	269	320	1,316	231	219
Decrees, Rules, Orders, and lis Pendens, ...	550	453	485	456	390	370	423	541	509	501	557	536	582	539	424
Recognizances and Crown Bonds, ...	153	96	134	143	128	94	259	356	264	519	356	266	202	206	296

Three Judgments at the suit of the Crown were registered, viz :—One in the year 1864, one in 1869, and one in 1870. One Inquisition was registered during the period, viz. : the year 1869. No Statute or Acceptance of Office was registered during the period, nor I believe since the creation of this Office.

(Signed), MARK PERRIN.

June 14, 1878.

MISCELLANEOUS.

R. of Sasines Edin Letter and Search Sheets.

EXTRACTS relative to "SEARCH SHEETS," from a Letter of Mr. BRODIE, Keeper of the Register of Sasines, Edinburgh, dated 29 January, 1878, with SPECIMEN SHEETS.

. . . . . .

This office, which was an exclusive register only for the counties of Edinburgh, Haddington, and Linlithgow, and though competent for the rest of Scotland, merely subsidiary with respect to it to a great number of local registers, has become, under the provisions of the Land Registers (Scotland) Act, 1868, the only competent register for all the counties in Scotland, those local registers having been abolished.

The writs of each county being now all registered here, are kept from the first in separate county arrangement, in the order of their presentment, instead of being entered in the mass without distinction, along with the writs of all other counties in the order of presentment of the whole writs, and being brought afterwards into county arrangement. . . . .

. . . . . .

By far the greatest improvement, however, since 1860 I conceive to be the introduction of what are termed "SEARCH SHEETS," which were previously unknown in practice, but were commenced in this office in 1871, and are now prepared in it contemporaneously with the register for all the counties of Scotland. In these search sheets are separately entered, in county arrangement, the *descriptions of every land, however inconsiderable, separately owned*, to which any registered writ applies, followed by a concise statement of the import of every registered writ applicable to such lands, in the order of presentment Along with these Search Sheets are prepared contemporaneously INDEXES to them, both of persons and places, by means of which they are readily examined with reference to each writ, when presented for registration; and it is seen at once whether the lands described in it have or have not already a Search Sheet, so that it may be entered in the existing Search Sheet if there be one, or if not, a Search Sheet may be opened for the lands it relates to.

The "Search Sheets" were introduced originally for the purpose of facilitating registration after the business of the office was so greatly augmented by the abolition of the local registers. In that respect they are of the utmost service; for they disclose at once on the presentment of any writ whether, during their currency, any writ applicable to the same lands has been already registered, and in all those cases, instead of the preparation of an entirely new minute, the labour is limited to little more than a careful comparison of the newly-presented writ, with the minute of the writ applicable to the same land previously registered.

. . . . . .

As they show separately with respect to each separate land or tenement in every County of Scotland, all the writs in the order of presentment, which during their currency have been registered, they form, in fact, for all that period COMPLETED SEARCHES made by anticipation of each separate land or tenement, and not only for those lands or tenements with respect to which some writ has during the currency of the search sheets been registered, but for all other lands and tenements; because they show whether any writ has been registered or not with respect to any given land or tenement, and where there has been no registration the return of the search sheet is simply negative. . . . . .

. . . . . .

The search sheets were only made really available for general searching purposes, so recently as 1st October last; but since then the business of searching in this office . . . . has been so considerable, that I have issued in that short period upwards of 1,100 searches, made by means of the search sheets. . . . .

. . . . . .

Under the old system of searching the Sasine Registers, by means of the printed indexes in the old forms, searches very commonly occupied in their preparation many weeks, and frequently even months, after they were ordered, whereas a very few days, very often not more than one or two, are required when searches are made by the search sheets.

One important consequence of this is, that it will not be necessary for men of business to incur the risk of granting, on behalf of their clients, as hitherto they have found it necessary to do, guarantees as to the state of the Registers, and their freedom from incumbrance, long before this could be ascertained by a search of the Registers; for the search sheets, wherever they exist, show at once what the registered incumbrances truly are.

Faithfully yours,

(Signed) JOHN C BRODIE.

SPECIMENS OF SEARCH SHEETS AND INDEXES.

Search Sheet, County of Edinburgh, 8365.

House on second floor, upstairs, of No 2 Baxter's Place, Edinburgh.

1878. May 15.	133	Bond for £500 by Elizabeth Lecia Fleming, residing at No 69, Montgomery-street, Edin To the Northern Heritable Securities Investment Company (Limited), dated 14 May, 1878
„ „	16.	161	Disp by William Jenkinson, Wine and Spirit Merchant, in Leith. To said Elizabeth Lecia Fleming, dated 14 May, 1878.

Search Sheet, Index of Persons

Fleming,

Elizabeth Lecia (Montgomery-st, Edin. (2, Baxter's Pl), 8365

Jenkinson,

William, Wine, &c, Merchant, Leith (2, Baxter's Pl), 8365.

Search Sheet, Index of Places

Baxter's Place (Edinburgh).

No.	Description of Property	Proprietors' Names.	No. of Search Sheet.
6	House on 2nd floor, upstairs of No. 2,	Wm Jenkinson, Elizth L Fleming,	8365.

NOTE.—Some observations and suggestions have been sent to the Commissioners which being more properly applicable to the organization of the Registry of Deeds Office and other subjects of inquiry not embraced in the present Report, have been omitted by the Commissioners from this Appendix.

R. J. LANE, Secretary.

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